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ABSTRACT

This report examines the problem of misclassification of children into classes for the educable mentally handicapped (EMH) in the Chicago (Illinois) Public Schools. The report claims that 7,000 out of 12,000 students assigned to EMH classes do not belong there and could be moved back to regular classes with extra help; most of these misclassified students are black. The nature and scope of Chicago's misclassification problem are described and contrasted with the problem in other large cities. The history of efforts to end misclassification is provided. Major ingredients of an effective solution to the problem, based on experts' opinions, are also considered as are deficiencies in Chicago's reclassification project. Finally, a series of specific recommendations are offered as to essential changes needed to correct the project, and suggestions are given as to what parents, educators, and members of the public can do to help make these changes happen. Appended to the report are tables, school data about EMH misclassification, and other data relating to reform efforts of Chicago's EMH program. (AOS)

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Misplaced children in Chicago's classes for the mentally retarded

Designs for Change
December 1982

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This report was funded in part by the Wieboldt Foundation and the Woods Charitable Fund, Inc., both of Chicago.

A limited number of single copies of this report will be made available at no cost to individuals and groups who are working actively on the EMH issue in Chicago. For others who are interested in obtaining this report, copies are available from Designs for Change for $4.00 prepaid (includes postage).

For additional information on the misclassification project, contact Sheila Radford-Hill, project coordinator, at Designs for Change.

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Summary

Misclassification: A Blatant Injustice That Can Be Remedied

Chicago has been the largest misclassifier of students assigned to classes for the mentally retarded in the United States. For each school year during the past decade, the Chicago Public Schools has assigned more than 12,000 students to classes for the "mildly mentally retarded" (called classes for the "Educable Mentally Handicapped" or "EMH classes").

Chicago has almost twice as many students in these classes as any other school system in the United States. Approximately 7,000 of the students in these classes do not belong in them and could, with some extra help, move back into the regular school program; these children are misclassified.

More than 10,000 of the students in Chicago's EMH classes are black. Chicago's black students are assigned to EMH classes at twice the rate for white students. Chicago has more than three times as many black students in these classes as any other school system in the United States. Chicago's EMH classes represent a particularly blatant form of racial discrimination, since experts on mental retardation agree that minority children are especially likely to be misclassified due to biases in student evaluation and placement.

However, it is not only black students who are misclassified in Chicago. Chicago has an excessive number of white students in these classes also, the largest number of any school system in the United States.

Data about the EMH program in Chicago do not indicate that an exceptionally high number of mildly retarded children reside in Chicago; but rather, the huge number of students in Chicago's EMH classes results from a web of misguided policies and practices. These data indicate, for instance, that:

- The enrollment in EMH classes has stayed fairly steady for the past decade, actually rising a little, while enrollment in the system has declined 20%.
- EMH enrollment increases dramatically from elementary school to high school, especially for black students.
- Enrollment in EMH classes varies widely among the school system's twenty administrative districts, with no evident rationale behind these variations.

(In the course of analyzing these data, Designs for Change identified several other inequities in Chicago's special education program that deserve investigation, including the limited availability of special education programs for Hispanic children.)

Parent and Citizen Groups Have Fought Misclassification

To eliminate misclassification, Designs for Change, as well as other concerned parent groups, community groups and legal organizations in Chicago, have committed themselves to a long-term effort.

Initially, the school system fought for almost seven years against mak-

ing any changes in the way they evaluated and placed children in EMH classes. However, in 1981, they agreed, as part of their efforts to resolve two lawsuits, to make some changes. They acknowledged that thousands of children were probably misclassified. They agreed to change their methods for assessing students for EMH classes and to reevaluate the more than 12,000 students currently in these classes to see if they belonged there. This was potentially good news for many children and their parents. However...

Chicago's Response to Misclassification: A Crash Program That Can Harm Many Children

There is a strong consensus among experts on the EMH problem about the safeguards needed to protect children from the dangers of misclassification. Experts conclude that EMH placement should be made only as a last resort, after a number of other approaches have been tried to helping a child learn and after several safeguards in testing have been carried out.

And experts agree that there is no evidence of the long-term benefit of being in an EMH class or that even those children who meet the proper qualifications for assignment to EMH classes can be considered as permanently "retarded"; thus, EMH programs themselves must be changed radically.

These are among the major conclusions reached by a national commission that recently studied EMH misclassification in great depth and identified a series of specific steps that school systems should take to solve the EMH problem.

Further, independent consultants hired by the Chicago Public Schools to advise school officials about what they should do to address the misclassification problem made recommendations that echo those of the national commission.

The Chicago Public Schools has recently initiated a multi-million dollar effort to remedy the EMH misclassification problem. This "reclassification project" is the largest and most expensive ever undertaken by a public school system in the United States.

However, in designing and carrying out this program, Chicago has disregarded generally accepted procedures recommended by experts on misclassification, including those of its own consultants. Instead, it has embarked on an expensive yet defective crash program that has the potential to bring further harm to thousands of children -- children who have already suffered the injustice of being misclassified and miseducated.

Here are some of the major ways in which Chicago's reclassification project flies in the face of generally accepted standards for dealing with the misclassification problem:

- For reasons that are unclear, Chicago has chosen not to use generally accepted testing procedures for identifying misclassified students; instead, Chicago has developed its own "Experimental Battery" of tests. The tests and testing procedures being employed by the school system are grossly inadequate for the decisions about children's futures that the school system is making. Chicago's procedures for developing and using these tests violate numerous ethical and technical standards that psychologists are obligated to follow.

- When children who have been misclassified stay in EMH classes for a number of years and are then returned to the regular school program, both the misclassified students and the regular classroom teachers who must now teach them need expert help from skilled "resource teachers" in making this transition successful. However, transitional programs promised for the thousands of children being returned to the regular education program in Chicago either do not exist or fail to meet minimum standards of adequacy.

- Parent involvement in the decision making about children's retesting and reclassification (which is required by law) is not allowing many parents to have an impact on key decisions affecting their children's futures.

- No substantial effort is being made to improve the diversity and quality of special education services for the children who will remain in the EMH program after retesting, despite the fact that Chicago's current EMH program is seriously deficient in several key respects.

- Many experts on misclassification agree that the misclassification problem is constantly regenerated because regular classroom teachers refer too many children to be evaluated for special education whose problems should be dealt with within the regular classroom. There is no evidence that adequate longer-term plans are being made or mechanisms being put in place to limit the number of inappropriate "referrals" for special education evaluations.

- Leadership from top school system administrators is essential if the many parts of the school system that need to cooperate in addressing the misclassification problem are to act coherently. The General Superintendent of Schools and other top administrators who should have provided this leadership have failed to do so.

Recommendations for Action

The present situation demands both short-term and long-term action.

In the short term, Designs for Change and other parent and citizen groups request that the school system suspend the current reclassification project, redesign it with advice from outside consultants and interested members of the public, and start the project again after putting it on the right track. We also request that the state of Illinois, which has provided a substantial portion of the funds for Chicago's EMH programs and which has clear legal responsibilities to enforce state and federal laws prohibiting misclassification, launch a thorough investigation of Chicago's misclassification problem.

The key to moving both the Chicago Public Schools and the state of Illinois to make needed changes is vocal, informed, and persistent action on the part of individual parents, parent groups, and citizen groups. Concerned groups and individuals need to press the school system and the state to act, to investigate the misclassification problem in particular schools and neighborhoods, and to aid individual parents whose children are being reclassified.

Finally, in the short term, the two major professional associations of school psychologists, the American Psychological Association and the National Association of School Psychologists, should investigate apparent violations of professional

standards in the school system's reclassification project.

Even when satisfactory short-term changes are achieved, a basic comprehensive improvement in the misclassification problem will require an effort that extends over a period of years. No one should believe that the dynamics that have created the largest EMH misclassification problem in the United States will be quickly changed. Thus, this report includes a number of recommendations to the school system, the state, and to concerned parents and citizens for needed longer-term action.

About Designs for Change

Designs for Change is a non-profit research, advocacy, and training organization that works for basic improvements in the day-to-day school experience of children, both in the Chicago Public Schools and in other Illinois school districts. DFC also has a national reputation for carrying out research about educational problems.

One of the basic principles of DFC's work, repeatedly confirmed in past research and experience, is that informed long-term parent and citizen monitoring of the schools and vigorous advocacy on behalf of children can make a crucial contribution to creating public schools we can all feel proud of. Thus, DFC's work consists largely of studying critical public school problems to identify their causes and solutions, bringing these problems and solutions to public attention, and organizing and advising parent and citizen groups who want to see these problems solved.

Both in Chicago and in Illinois, Designs for Change has made a long-term commitment to focus on three issues: improving the quality of "special education" programs for handicapped children; improving the capacity of the public schools to teach children to read; and improving the way that school districts use their financial resources.

We are concerned about all children, but especially about minority children, low-income children, handicapped children, and girls, who have often faced multiple barriers in obtaining a good education.

The DFC staff consists of experienced educational researchers, school teachers, school administrators, and community organizers. The DFC staff is multi-racial, reflecting our view that unified action is essential to achieving progress on key educational problems.

As part of our long-term effort to improve special education programs in Chicago and in Illinois, we have identified the misclassification of children in classes for the "mildly mentally retarded" as a severe problem that requires priority attention.

DFC's misclassification project is coordinated by Sheila Radford-Hill. Caught in the Web was written by Donald Moore, Ed.D., and Sheila Radford-Hill. Michele Zimowski and Arthur Hyde, Ph.D., had major responsibilities for data analysis. Kathy Blair is responsible for the design of the report and coordinated its production. Dan Fogel, Jean Newcomer, Marilyn Lewis, Sonia Silva, Joan Slay, Earl Durham, Carol Taylor, Janet Davis, Alfreda Burke, and Sharon Weitzman assisted in preparing and producing the report.

1

Introduction
A Blatant Injustice That Can Be Remedied

Highlights

Q. What is meant by the term "misclassification"?

A. Children are misclassified when they are placed in the wrong educational programs. Many children who are wrongly placed in special education programs can, with some extra help, learn quite effectively in the regular school program. One of the most damaging forms of misclassification occurs when children who are not retarded are placed in classes for the "mildly mentally retarded." These are called classes for the "Educable Mentally Handicapped" or "EMH classes" in Illinois.

Q. What is the size of the EMH misclassification problem in Chicago?

A. Chicago has had more than 12,000 children in EMH classes for the last decade, almost twice as many children as any other school system in the country. Approximately 7,000 of these children are misclassified.

Q. How does misclassification affect minority children?

A. Minority children are especially likely to be misclassified because of biases in the placement process for special education. In Chicago, more than 10,000 of the children in EMH classes have been black. Chicago has had more than three times as many black students in these classes as any school system in the country. However, Chicago has also had more white students in these classes than any other school system in the country.

Q. What should be done to eliminate misclassification in EMH programs?

A. Experts agree that a child should be placed in an EMH class only as a last resort, after a number of other approaches have been tried to help a child learn and after several safeguards in testing have been carried out. In addition, the quality of EMH programs themselves needs to be radically changed. In the past, Chicago's EMH program has failed to meet these generally accepted standards.

Q. What does the law say about misclassification?

A. Misclassification is illegal. Strong federal and state laws prohibit misclassification. These laws provide leverage for parents, concerned citizens, and educators to press for an end to the misclassification problem.

For each school year during the past decade, the Chicago Public Schools has assigned more than 12,000 students to classes for the "mildly mentally retarded."[1] In Chicago and throughout Illinois, these classes are called "EMH" classes, which stands for "Educable Mentally Handicapped." Available evidence suggests that more than 7,000 of the children in Chicago's EMH classes do not belong in them and could, with some extra help, learn quite effectively in the regular school program; these children are misclassified.[2]

As a result of long-term pressure from concerned parent and citizen groups, the school system agreed two years ago to do something about the misclassification problem. After fighting for almost seven years against making any changes in its EMH program, the Chicago school system has itself acknowledged that several thousand of the children in EMH classes probably do not belong there.[3] As part of its efforts to resolve two lawsuits, the school system agreed to change its methods for assessing students for EMH classes and to reevaluate the more than 12,000 students currently in these classes to see which students are misclassified.[4] This is the largest and most expensive reclassification project ever undertaken by any school system in the United States.[5] This reclassification project is potentially good news for many children and their parents. However. . .

As the school system's efforts to solve the problem have unfolded, it has become clear that this reclassification project is a crash program with a number of basic defects. Chicago's reclassification project has the potential to bring further harm to thousands of children -- children who have already suffered the injustice and the damaging impact of being misclassified. This is particularly unfortunate because experiences in other urban school systems that have dealt with the problem of misclassification in EMH programs indicate clearly a series of steps that can be taken to eliminate this injustice permanently.[6]

Therefore, Designs for Change and other concerned groups are urging the school system to suspend the current reclassification project and to make basic changes that will put this expensive effort on the right track.

This report describes the scope of the misclassification problem in Chicago and the history of efforts to deal with it. It describes the basic ingredients of an effective solution to the problem and the shortcomings of Chicago's present reclassification effort. And it recommends specific steps that need to be taken to bring the Chicago effort in line with acceptable standards, so that it can benefit children.

This introductory section provides a starting point for understanding the information and recommendations that follow; it describes some basic facts about misclassification and sets straight some common misconceptions about the children that the school system calls "mildly retarded."

The Size of Chicago's Problem

In the most recent year for which detailed data are available (1980-81), the Chicago Public Schools assigned more than 12,500 students to EMH classes.[7] The number of students in these classes has changed very little in the last decade.[8] Chicago had almost twice as many students in these classes as any other public school system in

the country in 1980-81. This disturbing fact is reflected vividly in Table 1, which shows the total number of children in EMH classes for the six largest cities in the United States.[9] The New York City Public Schools, twice as large as Chicago's, had about 6,500 students in these classes. The Los Angeles Public Schools, also larger than Chicago's, had only 2,500 students in these classes.

Over 10,000 of the 12,500 children in Chicago's EMH classes in 1980-81 were black.[10] Black students have been assigned to Chicago's EMH classes at a rate that is twice as high as the rates for Chicago's white and Hispanic students.[11] As shown in Table 2, Chicago had about three times as many black students in these classes as any other school system in the country. Experts on the EMH issue agree that minority children are especially likely to be misclassified when being considered for placement in an EMH class because of biases in the placement process.[12] Thus, EMH classes in Chicago represent a highly damaging form of racial discrimination.

Misconceptions about Children Labelled "Educable Mentally Handicapped"

School systems in Illinois divide their programs for serving children they label as mentally retarded into two main types: programs for children they label as "Trainable Mentally Handicapped" or "TMH" and programs for children they label as "Educable Mentally Handicapped" or "EMH."

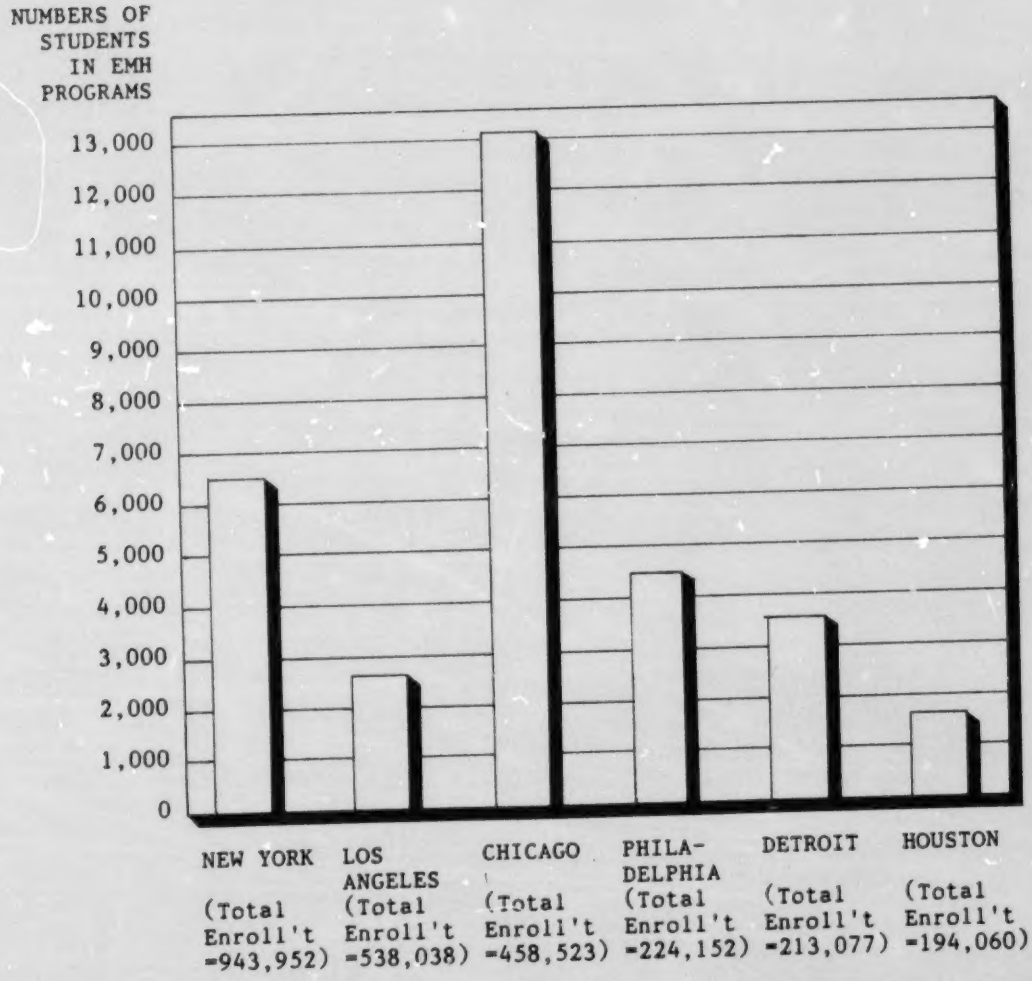
Children who are labelled TMH by the schools usually fit the image that the public has of a retarded child. They often have some visible physical abnormality, and their intellectual difficulties are frequently linked to a specific health problem or injury.[13] They are almost always identified as having a serious problem during their early childhood by parents or physicians.[14] They almost always experience some difficulty in performing the everyday tasks of life, such as dressing themselves or moving independently around the neighborhood.[15] Rather consistently, only two to three students per thousand (0.2% to 0.3% of all children) end up in TMH classes in most school systems.[16]

Students labelled as EMH contrast sharply with students labelled TMH and most do not fit the public's conception of the mentally retarded. They seldom have any physical abnormality.[17] They are almost never identified as "mildly retarded" in their preschool years; this label almost always is placed on the child by the schools as a result of difficulties within school.[18] Most children currently labelled EMH have no problems performing the daily tasks of life outside school, such as traveling independently or making purchases in a store.[19] Most deal competently with the world outside school, and they are only considered mildly retarded for the six hours a day they spend in school.

The percentage of children who end up in EMH classes fluctuates erratically among school systems and among black, white, and Hispanic children within school systems. To illustrate this point, Table 3 shows the percentage of black, white, and Hispanic students assigned to EMH classes in the six largest urban school systems in the United States in 1980-81.[20] As the bar graphs show, for example, the percentage of Chicago's black children assigned to EMH classes in Chicago is four times the percentage of New York City's black children assigned to EMH classes. Such fluctuations are one

Table 1

Total Numbers of Students in Programs for the Educable Mentally Handicapped (EMH) in the Nation's Six Largest Cities (1980-81 School Year)

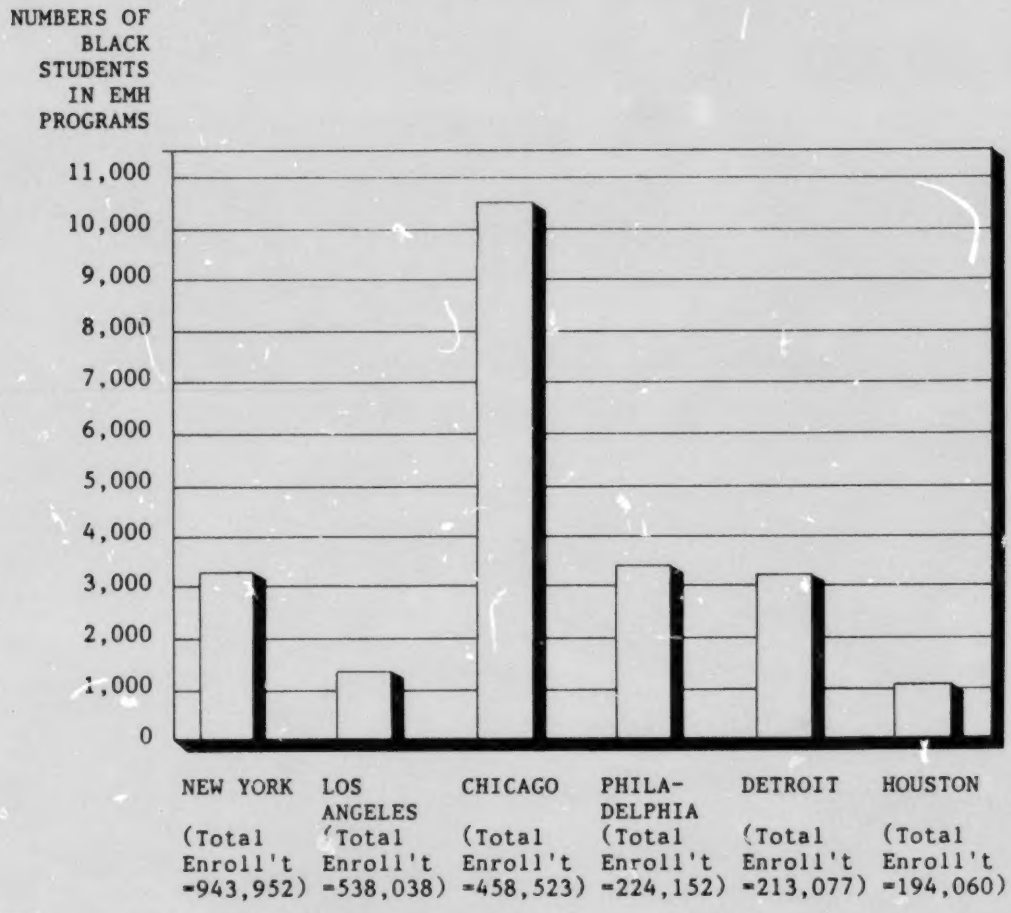


NOTE: Cities are listed in order of total school system enrollment.

Source: U.S. Department of Education, Office for Civil Rights, Survey of Elementary and Secondary School Districts, and Schools in Selected School Districts: School Year 1980-1981. See Table A-1 in Appendix A for more information.

Table 2

Numbers of Black Students in Programs for the Educable Mentally Handicapped (EMH) in the Nation's Six Largest Cities (1980-81 School Year)



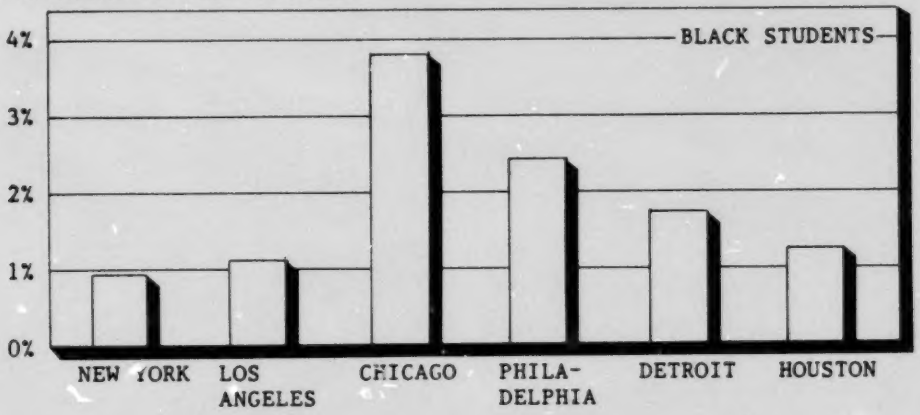
NOTE: Cities are listed in order of total school system enrollment.

Source: U.S. Department of Education, Office for Civil Rights, Survey of Elementary and Secondary School Districts, and Schools in Selected School Districts: School Year 1980-1981. See Table A-1 in Appendix A for more information.

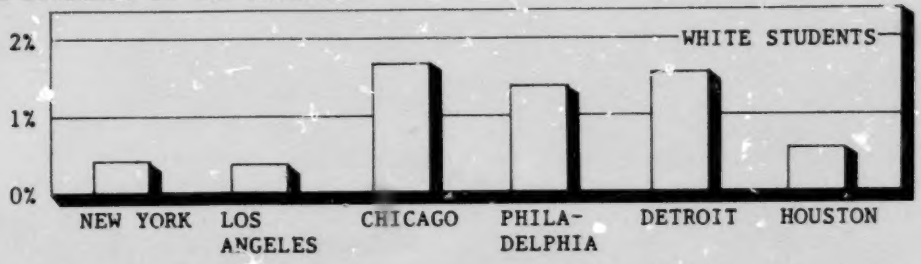
Table 3

Percent of Students from
Various Ethnic Groups in Programs for
the Educable Mentally Handicapped (EMH) in
the Nation's Six Largest Cities
(1980-81 School Year)

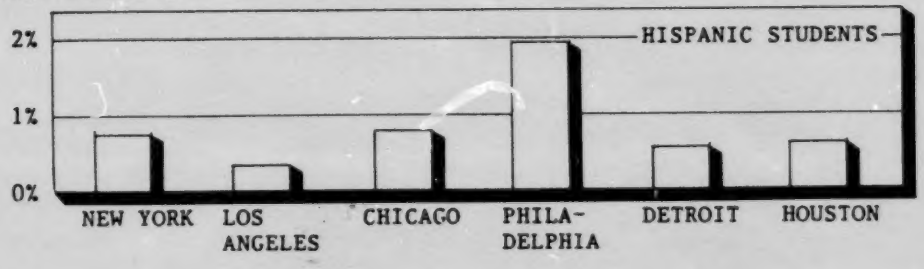
PERCENT OF THE SCHOOL SYSTEMS'
BLACK STUDENTS IN EMH PROGRAMS



PERCENT OF THE SCHOOL SYSTEMS'
WHITE STUDENTS IN EMH PROGRAMS



PERCENT OF THE SCHOOL SYSTEMS'
HISPANIC STUDENTS IN EMH PROGRAMS



Source: U.S. Department of Education, Office for Civil Rights, Survey of Elementary and Secondary School Districts, and Schools in Selected School Districts: School Year 1980-1981. See Table A-1 in Appendix A for more information.

of several kinds of evidence indicating that whether a child ends up in an EMH class frequently has little to do with the child's intellectual ability, but is often the result of a web of vague or inappropriate practices for making EMH placements employed by the school system. For example, one careful study of children in EMH classes showed that many of them had no serious intellectual deficit, but had ended up in EMH classrooms because they created discipline problems within the regular program.[21] For these and other reasons, a high percentage of children who end up in EMH classes are misclassified; they are caught in a web of misguided school system practices.

Experts on the EMH issue agree that such misguided practices are particularly likely to affect minority children -- for reasons discussed in detail in Section 4.

Deficiencies of EMH Programs

Special education classes and extra services for children with physical handicaps, significant emotional problems, learning disabilities, and limited mental abilities can be helpful for those children who really need them and can benefit from them. But if children are placed in special education programs where they do not belong (that is, misclassified), they can be permanently harmed.

Misclassification that places a child in an EMH class is particularly harmful because placement in EMH is frequently a one-way ticket to a separate and inferior education.

Almost all experts on the EMH issue agree that (1) a high percentage of children who end up in EMH classes do not belong there at all and (2) that most of the small percentage of children who might benefit from being in an EMH class do not deserve the label of "mentally retarded" or "mentally handicapped," which more accurately applies to children in TMH classes.[22] Children labelled EMH have academic problems in school, many of which can be overcome if they receive the educational experiences needed to develop their academic skills.[23] Even those children for whom the EMH program is the best available placement at a given point in their school experience should be seen as having learning problems that can be overcome; a good EMH program should allow many EMH students to spend a substantial portion of their time in the regular classroom and to help them gain the skills needed to return permanently to the regular program later on.[24]

The reality of EMH programs in Chicago and elsewhere undermines the possibility that EMH can be a legitimate educational experience for children. Because the children in EMH classes are considered "mentally retarded," most teachers and the children themselves come to have very low expectations for what an EMH student can do.[25] A strong stigma is attached to being in an EMH class, which is referred to in Chicago as the "dummy room" by many children and even some teachers and administrators.

The EMH program is a separate world for the children who end up in it. EMH programs are provided almost entirely in separate classes or even separate schools that cut the child off completely from the regular school program. In Chicago, 89% of EMH students learn in separate classrooms or separate special education schools.[26] Once students are placed in EMH classes, they almost always remain in EMH for the rest of their school careers.[27]

Yet there is no evidence that children in EMH classes benefit academically. Studies comparing similar students in EMH classes and in regular classes have not shown that the EMH students do better academically.[28] Studies have also shown that children's confidence in themselves declines in EMH classes.[29] Frequently, EMH students exposed to low expectations and a limited curriculum, fall further and further behind.[30] As one student told us, "This class makes you stupid."

A Consensus Among Experts about Needed Safeguards

Because of the dangers that children can easily be misclassified as Educable Mentally Handicapped, the documented harms that being in an EMH class can cause, and the lack of clear evidence that children benefit from EMH programs, there is a strong consensus among experts on the EMH problem about the safeguards needed to protect children from the dangers of EMH placement.

Experts conclude that EMH placement should be made only as a last resort, after a number of other approaches have been tried to helping a child learn and after several safeguards in testing have been carried out.[31] And they agree that because there is no evidence of the long-term benefit of being in an EMH class or that even those children who meet the EMH qualifications can be considered "retarded," the EMH program itself should be changed radically.[32] EMH programs should maximize children's contact with the regular school program and constantly strive to prepare children to return to the regular program.[33]

These were the major conclusions reached by a commission of the National Research Council of the National Academy of Sciences, which recently looked at the issue of EMH misclassification in great depth.[34] This commission identified a series of specific steps that school systems should take to solve the EMH problem.[35]

At about the same time, the Chicago Public Schools hired expert consultants on the misclassification issue to advise them about how to address it, and these experts provided Chicago with a series of specific recommendations that echo those made by the national commission.[36] These reports, along with evidence about how misclassification has been dealt with in a number of other cities, indicate some clear standards of conduct for any school district that, like Chicago, faces a misclassification problem and wishes to eliminate it.[37]

Misclassification Is Illegal

Misclassification is not only indefensible on ethical and educational grounds; it is illegal. There are strong federal and state laws that protect students who are being assessed for special education and that specify the quality of special education programs and services to which children are entitled.[38] And parents have unprecedented legal rights to influence the assessment and placement of their child in an EMH class, if they exercise them.[39] State and federal laws give school systems a clear legal obligation to eliminate misclassification and give concerned parents, parent groups, citizen groups, and educators strong leverage in pressing for appropriate changes.

The Organization of This Report

With this introductory information in mind, the reader can better understand the remaining sections of this report:

- Section 2 describes the nature and scope of Chicago's misclassification problem, using data about Chicago and other large cities.

- Section 3 describes the history of efforts to end the misclassification problem in Chicago.

- Section 4 outlines the major ingredients of an effective solution to the misclassification problem, based on the consensus of experts on this issue.

- Section 5 describes the deficiencies and the unknowns of Chicago's present approach to solving the misclassification problem, when it is judged in light of generally accepted standards.

- Section 6 offers a series of specific recommendations about essential changes needed to get Chicago's program on the right track and describes what concerned parents, educators, and other members of the public can do to help make these changes happen.

<u>This report is intended as a resource for both immediate and long-term action</u>. On the one hand, the deficiencies of the school system's present reclassification project make immediate action vital. On the other, the size of the problem and depth of the difficulties within the school system that have come to light in their reclassification project clearly indicate that sustained effort over a period of several years will be needed to bring about a comprehensive solution.

We address this report especially to concerned parents and citizens, and we suggest specific steps that they can take to solve the misclassification problem. We believe that informed parent and citizen action can play a decisive role in solving this and other serious educational problems in Chicago.

2

The Extent of the Misclassification Problem in Chicago

Highlights

Q. What data are available about the nature and extent of Chicago's EMH program?

A. The available data have been reported by Chicago school officials themselves to federal courts and the federal government. Especially useful is the nation-wide Office for Civil Rights Survey.

Q. How did Chicago's EMH program compare with the EMH programs in other large school systems in 1980-81?

A. Among the nation's six largest cities, Chicago had the most black and the most white students in EMH classes and the highest percentages of black and white students in these classes.

Q. What did the 1980-81 data show about the ethnic composition of Chicago's special education programs?

A. These data underscore a number of inequities for Hispanic and black children, not only in EMH but in other special education programs. Compared with white students, Hispanic students were consistently under-represented in special education, only half as likely as white students to get special education services at all. Compared with white students, black students were about equally likely to get special education services. However, black students with learning problems were more likely to be placed in separate and stigmatizing classes for the Educable Mentally Handicapped and "Educationally Handicapped," while white students were more likely to be placed in part-time resource programs that allowed them to remain in regular school classes.

Q. How did the percentage of students in elementary school EMH classes compare with the percentage in high school EMH classes?

A. The percentage of students in high school EMH classes was substantially greater than the percentage of elementary school EMH students, largely because of an increase in the percentage of black high school students placed in the EMH program.

Q. Was the percentage of students in EMH classes evenly distributed across Chicago's twenty administrative districts and 600 schools?

A. No. There were huge variations from one administrative district to another and one school to another. These variations suggest that particular administrative districts and particular schools were especially excessive in the numbers of students they referred for special education evaluations and placed in EMH classes.

Detailed information about the numbers and percentages of black, white, and Hispanic students in the EMH program and in other special education programs in Chicago helps clarify the nature of Chicago's misclassification problem and how it can be solved. Below, we discuss information about the EMH problem in Chicago as compared with other large urban school systems. We also look more closely at data concerning the Chicago Public Schools as a whole, individual administrative districts within Chicago, and individual Chicago schools.

Statistical data about Chicago's EMH program, as well as other special education programs in Chicago, are available for the school years 1979-80 and 1980-81. These data were collected by Chicago school officials themselves. 1979-80 data were presented to the federal court in a report by school system consultants.[40] 1980-81 data were submitted by school officials to the federal Office for Civil Rights.[41] Data for the most recent school year (1981-82) have not been made public, but meetings with school officials indicate that 1981-82 data concerning EMH programs do not differ significantly from the data for the previous two years.[42]

Whenever possible, data from 1980-81 have been used for drawing conclusions about Chicago's special education programs in this section, since these are the most recent data available. In their major patterns, 1980-81 data are very similar to 1979-80 data (see Table A-3 in Appendix A).[43] (The most critical data are presented in tables contained in this section and the previous section; supplementary tables appear in Appendices A and B.)

These data not only illuminate the EMH misclassification problem, but also several other serious inequities in Chicago's special education programs.

Chicago Compared with Other Large Urban School Systems

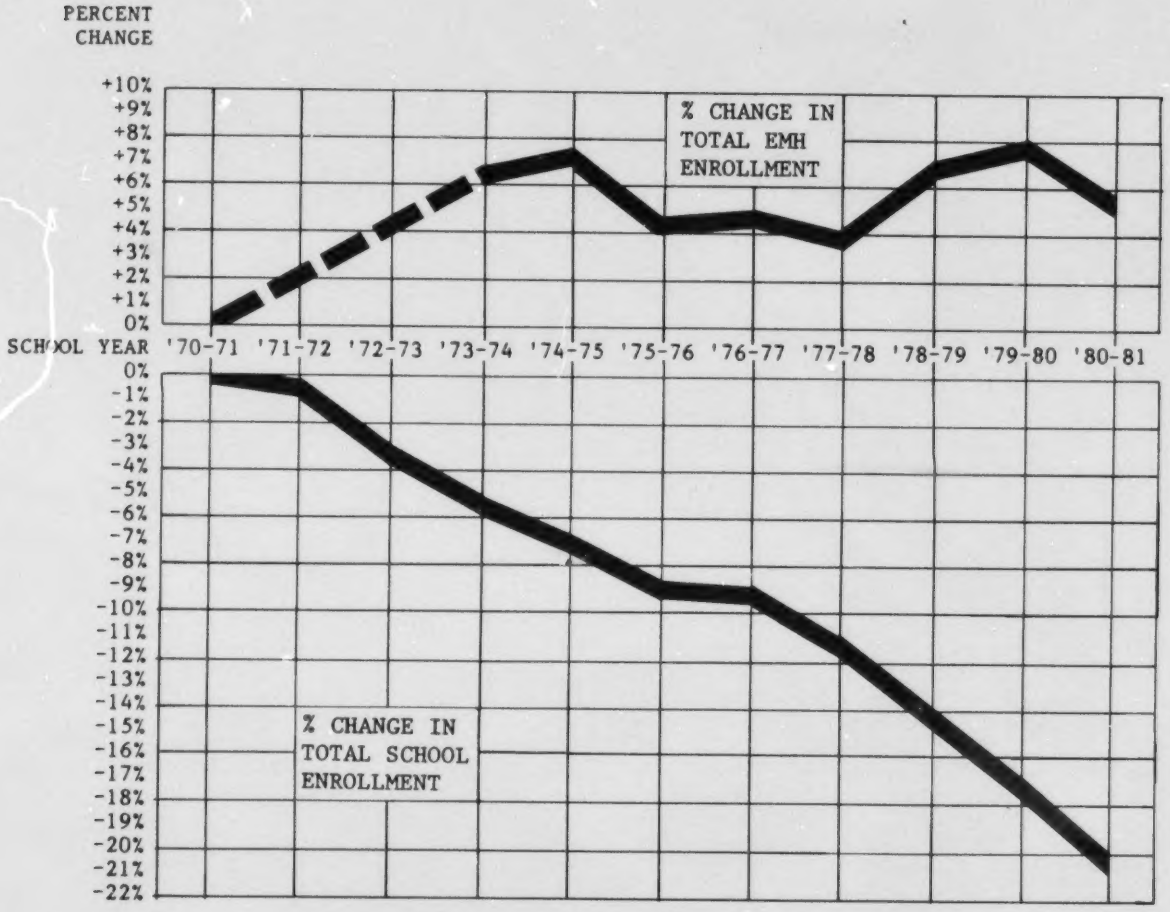
In Section 1, we documented the fact that Chicago had over 12,500 students in classes for the "mildly mentally retarded" in 1980-81, that over 10,000 of these students were black, and that there were many more students overall and many more black students in these classes in Chicago than in any other school system in the country.

Further, the total number of students in Chicago's EMH classes has remained remarkably stable over the past decade, despite a major decline in the student enrollment in the Chicago Public Schools. As Table 4 and Table A-2 show, the number of students in Chicago's EMH classes in the school years from 1970 to 1981 remained close to 13,000 each year, actually rising 5.58% from 1970 to 1981, while the total enrollment of the school system declined 120,000 students (20%) during this same period.[44] Having created a certain number of EMH placements and having hired the staff to teach them, the school system found students to fill these classes despite a major enrollment decline.

In understanding the EMH problem, however, it is important not only to look at numbers of students enrolled in EMH, but also to look at the percentages of students overall and the percentages of black, white, and Hispanic students who are assigned to EMH classes. Analyzing such percentages helps to make fair comparisons among urban school systems, among Chicago's administrative districts, and among schools, even when they are of different sizes.

Table 4

Percent Change in Enrollment in Chicago's EMH Program Compared with Percent Change in Total School System Enrollment (1970 through 1981)



Source: See Table A-2 in Appendix A.

Table 3 (in Section 1) summarizes the percentages of black, white, and Hispanic students in the nation's six largest cities who were assigned to EMH classes in the 1980-81 school year. As we noted in Section 1, for example, 0.91% of New York's black students were in EMH classes, as compared with 3.83% of Chicago's black students; thus the percentage of black students assigned to EMH classes in Chicago was more than four times the percentage of black students assigned to EMH classes in New York. Table 3 indicates, then, that Chicago not only had the largest number of black students in EMH classes, but also the highest percentage of its black students in these classes of any large urban school system.[45]

As Table 3 further indicates, the percentage of Chicago's white students in EMH classes (1.74%) was less than half the rate for Chicago's black students in 1980-81. However, Chicago also had the largest number of white students in these classes and the highest percentage of white students in these classes of any of the six cities.[46] This is one indication that a significant number of white students are also misclassified as EMH in Chicago.[47]

In five of the six urban school systems listed in Table 3 (including Chicago), the percentage of Hispanic students in EMH classes was less than 1% in 1980-81. As is discussed later in this chapter, the low percentage of Hispanic students in EMH reflects the generally low availability of special education services to Chicago's Hispanic students.[48] Despite the low percentage of Hispanic students in EMH classes, it may, of course, be true that individual Hispanic students are misclassified as EMH and don't belong there.

System-Wide Information about Chicago: A Closer Look

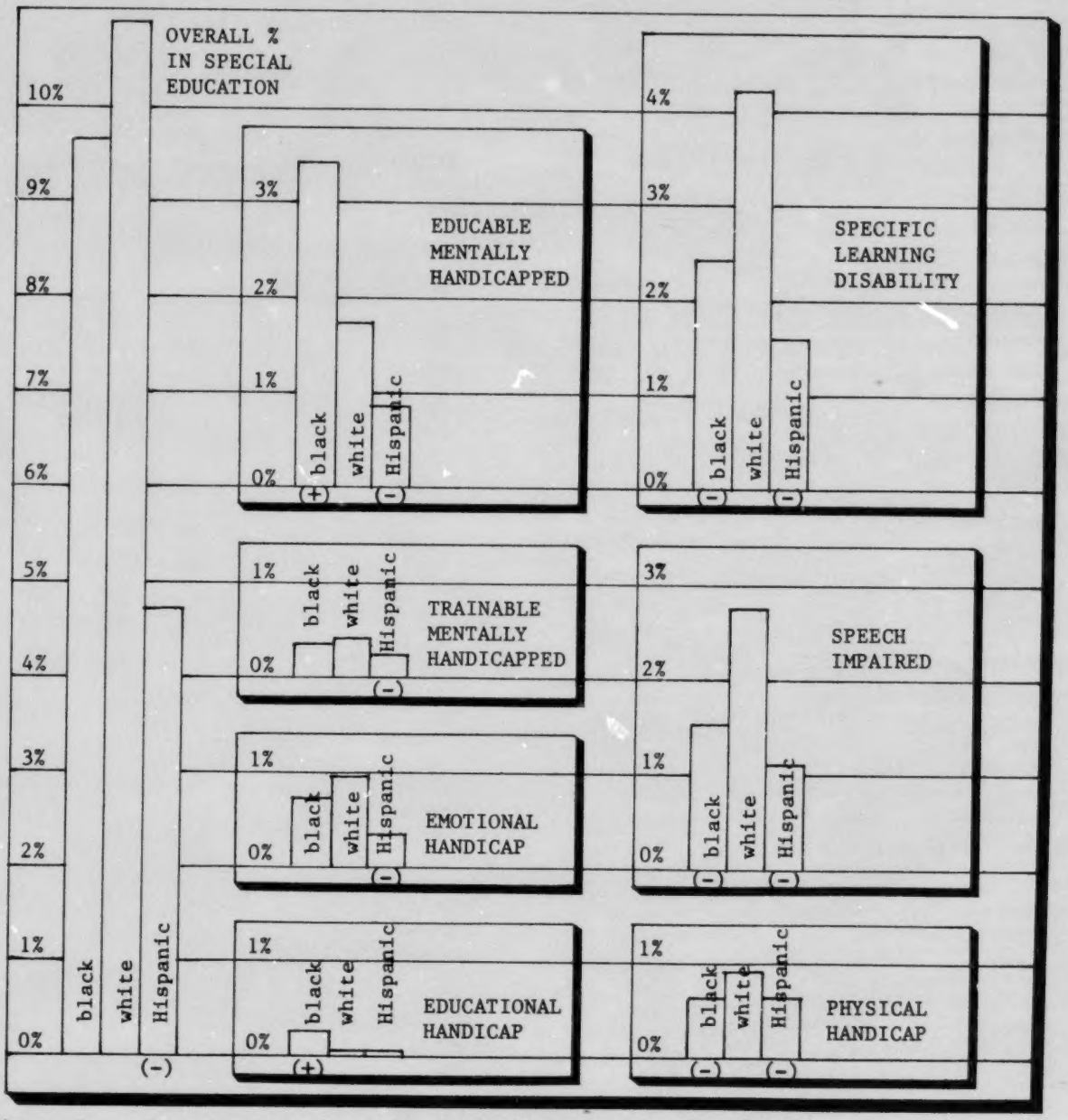
EMH is one of a number of special education programs operated by the Chicago Public Schools. As discussed in Section 1, appropriate special education placements and programs can benefit many children. However, special education placement is also a two-edged sword in terms of the dangers it raises. On the one hand, some students who need special education services are hurt when they do not get them.

On the other hand, students placed in special education programs where they don't belong suffer from being misclassified.[49] Table 5 indicates the percentages of children by ethnic group who were enrolled in various special education programs in Chicago in 1980-81.[50] Totals and percentages like the ones in Table 5 can serve as an alarm system to alert educators and the public to possible trouble areas where not enough placements may be available in particular types of special education programs and to areas where too many placements may be available, so that misclassification may be taking place.

One type of useful pattern to look for is the substantial "under-representation" or "over-representation" of black or Hispanic students, as compared with white students.[51] As Table 5 indicates, for instance, black students were over-represented in EMH compared with white students in 1980-81. When a particular minority group is substantially over-represented or under-represented compared with whites, the school system should be compelled to explain why this is the case. They should either identify inappropriate practices that will be changed or show that differences in

Table 5

Rates of Participation in
Various Special Education Programs
in Chicago by Ethnic Group
(1980-81 School Year)



Note: In each case where the rate of participation in a particular program is substantially greater for black or for Hispanic students, this rate is marked with a "+". In each case where the rate of participation in a particular program is substantially less for black or for Hispanic students, this rate is marked with a "-".

Source: U.S. Department of Education, Office for Civil Rights, Survey of Elementary and Secondary School Districts, and Schools in Selected School Districts: School Year 1980-81. See Table A-3 in Appendix A for more information.

placement rates among groups serve a justifiable educational purpose.[52]

In Table 5, every category in which black or Hispanic students were substantially over-represented in a special education program in the 1980-81 school year is indicated by a plus (+). Every category in which black or Hispanic students were substantially under-represented in a special education program is indicated by a minus (-).

Hispanic Students in Special Education. With respect to Hispanic students, this analysis indicates that Hispanic students were substantially under-represented in special education overall. Table 5 indicates that 10.91% of white students were participating in special education, compared with only 4.73% of Hispanic students.[53] Hispanic students were not over-represented in any special education program, but they were substantially under-represented in programs for children labelled Educable Mentally Handicapped, Trainable Mentally Handicapped, Specific Learning Disability, Emotional Handicap, Speech Impaired, and Physically Handicapped. These data strongly indicate that Hispanic students have an inequitable opportunity to receive needed special education services in Chicago.

Experts on the classification process conclude that limited access to special education for Hispanic students results from several factors. First, Hispanic students with learning problems are often placed in bilingual education programs; since no comparable placement exists for black or for white students with learning problems, black and white students are more likely to be placed in special education.[54] However, standard bilingual programs are not designed to deal with handicapped children.

Second, there is frequently an insufficient number of bilingual special education teachers, and teachers and psychologists won't refer and recommend Hispanic children with limited English proficiency for special education placements when they know that no qualified teachers are available.[55] Bilingual education teachers we have interviewed in Chicago indicate that they have Hispanic students in their classrooms whom they believe need special education help, but that they keep these children in bilingual classes because there are only a handful of bilingual special education teachers in Chicago.

Third, school administrators frequently discourage referrals of Hispanic students for special education evaluation because they fear discrimination charges that could result if Hispanic children with limited English proficiency are not properly tested.[56]

Although not the major focus of this report, data that document substantial under-representation of Hispanic students in special education programs suggest a discrimination problem that deserves additional scrutiny by educators and by the public and that must be corrected.

Black Students in Special Education. As Table 5 indicates, black students' overall participation in special education programs was somewhat less than that for white students in 1980-81 (9.67% of black students were in special education programs, as compared with 10.91% of white students). However, these overall percentages mask the fact that black students were substantially over-represented in some programs and under-represented in others. Blacks were significantly over-represented in classes for the "Educable Mentally Handicapped" and for the "Educationally Handicapped,"

or "EH" classes.[57] The latter is a vague category in which older students are placed "whose deficits in basic academic skill development are attributable primarily to factors associated with environmental experiential limitations."[58] As Table 5 indicates, the overwhelming percentage of children in the Educationally Handicapped program in 1980-81 were black, making it the most racially segregated of any Chicago special education program.

While black students were over-represented in EMH and EH classes, they were substantially under-represented in special education programs for Learning Disabled, Speech Impaired, and Physically Handicapped students, as compared with the whites.

Patterns of black student participation in special education are illuminated by some additional data from 1979-80. For each special education program in which black students were over-represented or under-represented that deals with learning problems as opposed to physical handicaps, Table 6 shows the percentage of students who received their special help (1) within the regular classroom or in a part-time resource room, (2) in a separate full-time special education classroom, or (3) in a separate special education school or other separate facility.[59]

Table 6 shows that those programs in which black students were over-represented in 1979-80 (Educable Mentally Handicapped and Educationally Handicapped) provided special education services almost exclusively in separate classrooms and schools. In contrast, those programs in which black students were under-represented provided special services either in the regular classroom or through part-time resource programs that allowed children to spend most of their time in the regular classroom.[60]

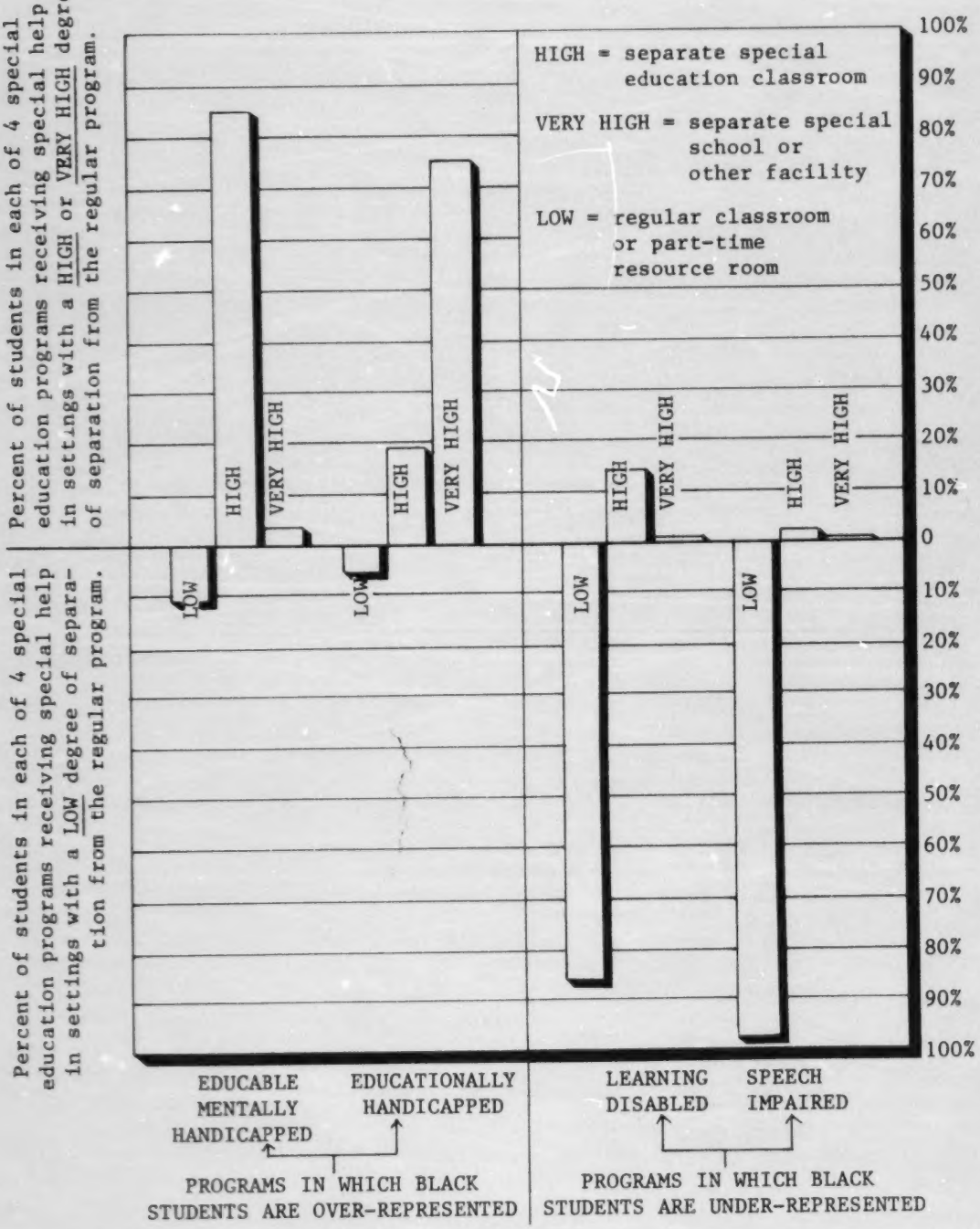
Taken together, the evidence indicates that Chicago's black students with learning problems are more likely to be placed in separate and stigmatizing classes for the Educable Mentally Handicapped and Educationally Handicapped, while white students with learning problems are more likely to be placed in part-time Speech and Learning Disability programs that allow them to remain in the regular school program.

A Summary of Some Issues That Warrant Further Investigation. Before the data on EMH programs are analyzed in more detail, it is important to review several potential discrimination problems just discussed that deserve additional investigation, although they are not the major focus of this report:

- The general under-representation of Hispanic students in special education programs, including six different categories of intellectual, physical, and emotional handicap. More special education programs and services are needed in schools that serve Hispanic students. More bilingual special education personnel are needed.
- The over-representation of black students in segregated classes for the Educationally Handicapped. The racial segregation and separation from the regular school program characterizing these classes needs to be changed.
- The under-representation of black students in programs for the Learning Disabled, Speech Impaired, and Physically Handicapped. More special education placements need to be made available in these programs in schools that serve black students.

Table 6

Four Special Education Programs in Chicago
in Which Black Students Were Over- or Under-Represented.
Degree of Separation from the Regular School Program.
(1979-80 School Year)



Source: See Table A-4 in Appendix A.

Differences Between Chicago's Elementary and High School Programs for the Educable Mentally Handicapped

A further understanding of the nature of the EMH program in Chicago comes from examining system-wide data about the number and percentages of black and white students classified as EMH at the elementary level (grades kindergarten through eight) versus the high school level (grades nine through twelve). As Table 7 shows, the overall percentage of white and black students classified as EMH was 3.07% at the elementary level and 4.00% at the high school level in the 1980-81 school year.[62] As Table 7 further shows, this difference between elementary school and high school EMH placement rates was accounted for entirely by an increase in the percentage of black students classified EMH at the high school level. While 1.77% of white elementary students and 1.78% of white high school students were classified as EMH, 3.42% of black elementary students and 4.83% of black high school students were classified as EMH (a 41% increase for black students).[63]

One possible, but unlikely, explanation for this pattern is that an increasing percentage of black high school students become mildly retarded as they move from elementary to high school in Chicago. An alternative and more plausible explanation is that the misclassification and discrimination that exists in Chicago's EMH program is especially prevalent at the high school level. As will be discussed in Section 4, the fact that a higher percentage of older students are in Chicago's EMH classes places particular burdens on the school system, because it is harder for misclassified older students to move from the EMH program to the regular program, as compared with younger students.

Differences in EMH Classification Among Administrative Districts

The patterns of student placement in EMH (both overall and by ethnic group) are not distributed evenly over the city. Rather, there are marked variations among the school system's twenty administrative districts (see Table 9) in the percentages of students who end up in EMH classes.[63]

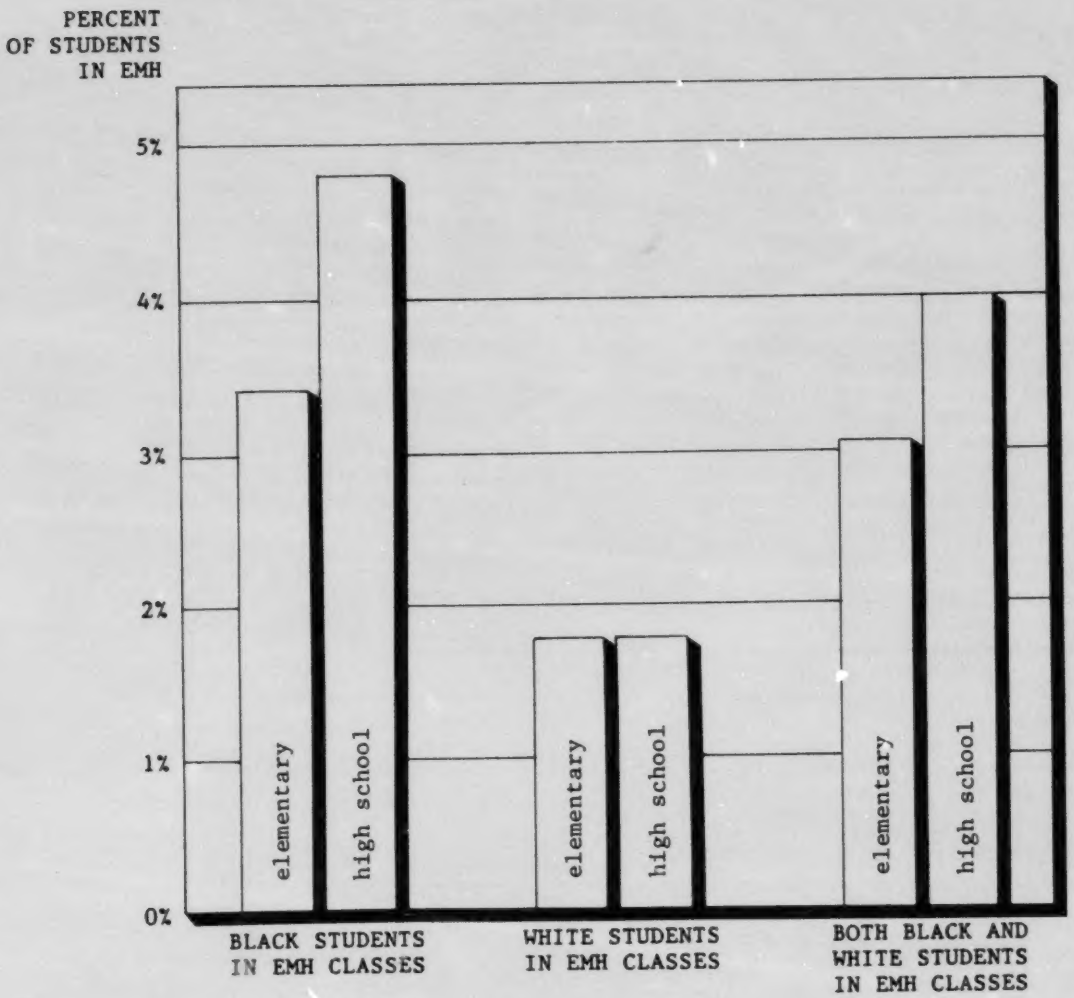
Table 9 indicates the percentage of black and white students in EMH programs for each of the twenty administrative districts in 1980-81. At the elementary level, the percentage of black students in EMH classes varied from 1.59% to 6.56% across the twenty administrative districts, more than a four-fold difference.[64] At the high school level, the percentage of black students in EMH classes varied from 0.89% to 7.95% across the districts, almost a nine-fold difference.

Such wide variations strongly suggest that high rates of black student assignment to EMH in particular districts result from arbitrary or discriminatory practices within these districts, not from huge differences in the rates of mild mental retardation among black students in various parts of the city.

For example, as will be discussed in Section 3, one explanation that the school system has used in the past to justify the high rate of black student placement in EMH classes is that there has been a higher incidence of poverty among Chicago's

Table 7

Percent of Chicago's
Black and White Students in
Elementary and High School EMH Classes
(1980-81 School Year)



Source: U.S. Department of Education, Office for Civil Rights, Survey of Elementary and Secondary School Districts, and Schools in Selected School Districts: School Year 1980-1981.

Table 8

Map of Chicago Public Schools
Twenty Administrative Districts

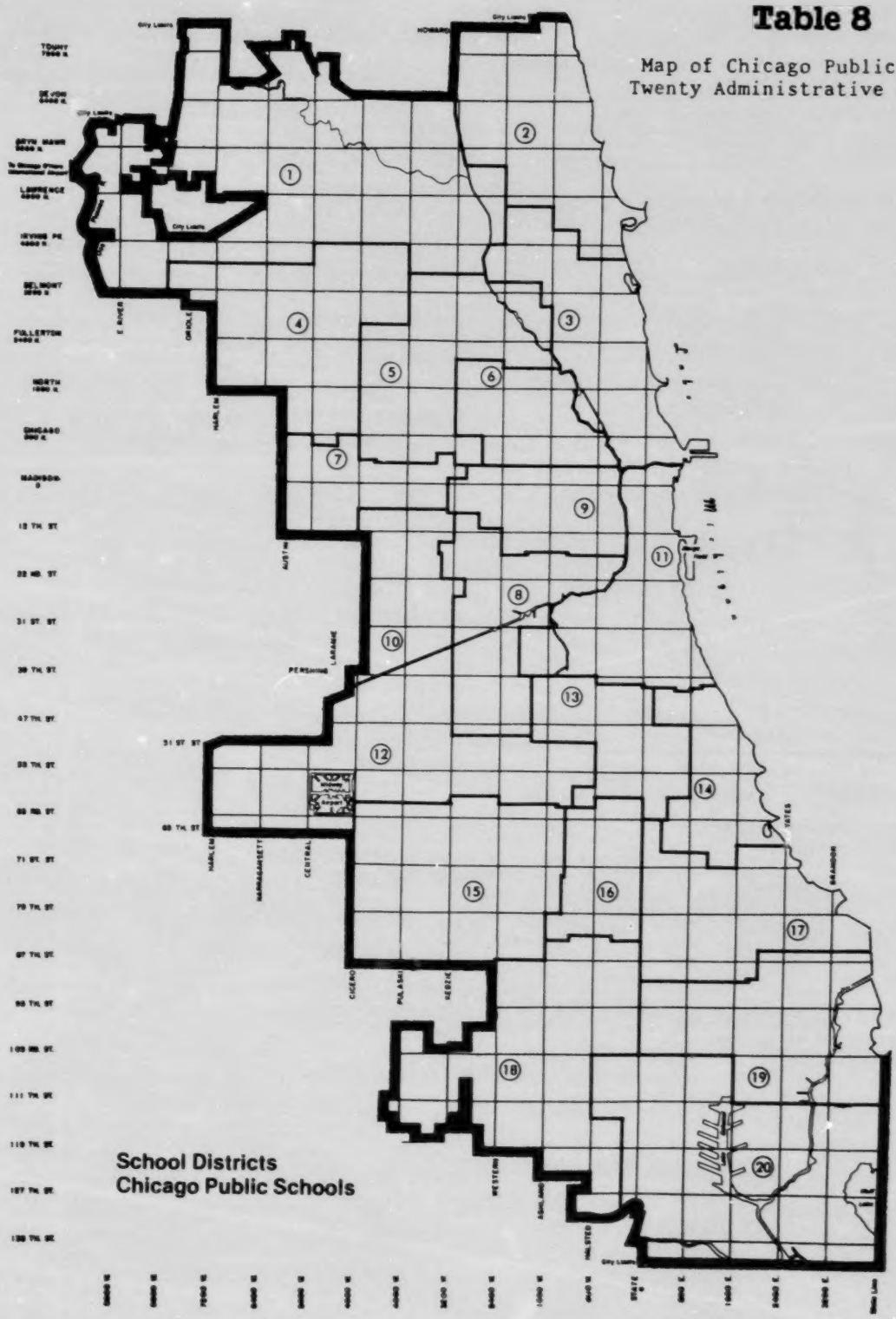


Table 9

Percentages of Chicago's Black and White Students in Elementary and High School EMH Classes for the School System's Twenty Administrative Districts (1980-81 School Year)

DISTRICT	% OF ELEMENTARY STUDENTS IN ELEMENTARY EMH CLASSES		% OF HIGH SCHOOL STUDENTS IN HIGH SCHOOL EMH CLASSES		% OF ALL BLACK AND WHITE STUDENTS IN CHICAGO'S EMH CLASSES		DISTRICT RANK BY % OF LOW-INCOME STUDENTS IN THE DISTRICT (district ranked first has the highest poverty rate)
	BLACK	WHITE	BLACK	WHITE	BLACK	WHITE	
1	2.77%	0.89%	0.89%	0.83%	2.17%	0.87%	20th
2	1.67%	1.30%	2.17%	1.35%	1.79%	1.32%	18th
3	3.13%	1.18%	4.27%	0.73%	3.39%	0.98%	12th
4	3.26%	2.55%	7.13%	2.53%	4.01%	2.54%	19th
5	4.65%	2.90%	7.95%	0.25%	5.42%	2.68%	10th
6	5.34%	3.20%	2.64%	2.90%	4.45%	3.14%	1st
7	4.49%	-*	2.83%	-*	4.10%	-*	4th
8	5.54%	2.45%	5.48%	3.16%	5.42%	2.72%	6th
9	3.25%	0.65%	7.92%	0.58%	4.81%	0.59%	2nd
10	3.74%	4.82%	5.69%	-*	3.87%	1.17%	5th
11	6.56%	3.65%	3.23%	0.98%	5.28%	3.25%	7th
12	3.77%	2.34%	7.48%	1.37%	4.57%	1.91%	15th
13	3.11%	1.80%	7.71%	-*	4.05%	3.40%	3rd
14	3.38%	1.85%	4.59%	1.01%	3.82%	2.56%	8th
15	2.67%	1.32%	2.27%	1.07%	2.55%	1.22%	16th
16	3.25%	-*	5.42%	-*	4.04%	-*	9th
17	2.37%	-*	4.43%	-*	2.71%	-*	13th
18	3.24%	0.48%	3.51%	2.07%	3.30%	0.94%	17th
19	1.59%	0.68%	4.18%	2.98%	2.88%	1.22%	14th
20	2.58%	1.46%	4.28%	1.55%	3.18%	2.94%	11th

* In these instances, the administrative district's total enrollment of a particular group of children (for example, white high school students) is less than 150, and a percentage rate has not been calculated.

Source: See Table A-5 in Appendix A.

black students that interfered with the development of black children's intellectual skills.[65]

However, as Table 9 indicates, those administrative districts with the highest percentage of low-income students enrolled are not necessarily the districts with the highest percentage of black students in EMH classes. In Table 9, the last column on the table indicates how the administrative districts rank in the percentage of low-income students in each one.[66]

The administrative district with far and away the highest percentage of black elementary level students in EMH is District 11, with 6.56% of its black elementary students in EMH classes; yet District 11 ranks only seventh highest in terms of poverty. At the high school level, five districts had more than 7% of their black students in EMH; three of these districts (Districts 4, 5, and 12) rank relatively low in terms of poverty (tenth, fifteenth, and nineteenth out of twenty districts in the percentage of their students who are from low-income families).

Disregarding those districts where the number of white students enrolled is too small to make valid comparisons,[67] one also finds substantial variations from district to district in the percentage of white students assigned to EMH classes. Elementary level enrollment of white students in EMH in the twenty districts varies from 0.48% to 4.82%. High school enrollment of white students in EMH varies from 0.25% to 3.16%.

Parent and citizen groups concerned about misclassification in their own neighborhood should seek explanations from local administrators about excessive percentages of black or white student enrollment in EMH in their administrative district.

School-to-School Differences in EMH Classification

Available evidence strongly suggests that there are wide variations in the percentage of students from individual schools who are referred for special education evaluations and in the percentage of students from individual schools who end up in EMH classes. Studies of EMH placement practices in various school systems across the country indicate that some school principals encourage or tolerate the practice of referring substantial numbers of children for special education evaluations, thus making particular schools a major source of misclassified students.[68] It is complicated to investigate this issue in Chicago because students who are classified as EMH do not necessarily attend their neighborhood school for the EMH program, but instead are bused to another school. In Appendix B, we describe the kind of data that the school system should make available in order to allow a straight-forward analysis of excessive EMH placements generated by individual school. Appendix B also describes how school-by-school data that are currently available can be used to explore this problem.

The widespread busing of students away from their neighborhood school to attend EMH classes elsewhere is itself a significant defect in Chicago's EMH program.[69] School-by-school data presented in Appendix B show high concentrations of EMH students in special schools for the handicapped and in regular schools that consolidate the EMH programs of several neighborhood schools. Such separation of EMH students from their neighborhood school is only justified if it serves a positive educational purpose, such as giving students access to highly specialized equipment or personnel.[70]

Available evidence indicates that the isolation of EMH classes in schools to which EMH students are bused is being done primarily for administrative convenience. (In some instances, EMH students from one ethnic group are being bused to attend a "desegregated" school where they have little contact with children from other ethnic groups.) Appendix B describes how these issues can be explored in particular schools and administrative districts, using available data.

Whenever the rate of student assignment to EMH classes exceeds 1.25% for any ethnic group, the burden should be on the school system either to explain the educational justification for this situation or to correct discriminatory practices.[71]

Major Conclusions about the EMH Problem Based on the Data

Taken together, the data analyzed in this section indicate the nature and severity of the EMH problem in Chicago, as it affects children in general and black children in particular. The following major observations help in clarifying the nature of the problem:

- Chicago has substantially more students overall and more black students in EMH classes than any other large urban school system in the United States. Chicago also has more white students in these classes than any other school system.
- Chicago has the highest rate of assigning both black and white students to EMH classes of any large urban school system in the United States.
- Chicago assigns black students to EMH classes at twice the rate for white students. Almost 90% of EMH students are served in separate "self-contained" classes or in separate schools.
- The percentage of Chicago students in EMH classes increases substantially from elementary school (grades kindergarten through eight) to high school (grades nine through twelve). This pattern results entirely from an increase in the percentage of black high school students placed in EMH classes.
- There are large variations in the percentage of black students assigned to EMH classes among Chicago's twenty administrative districts. Differences among districts do not relate clearly to the income level of a district's students (the districts with the highest percentage of low-income students are not necessarily the ones with the highest EMH rates). There are also large variations in the percentages of white students in EMH from district to district.
- There are large variations in the percentage of both black and white students assigned to EMH classes in Chicago's individual schools. These variations result both from the fact that some schools refer excessive numbers of students for special education evaluations and the fact that EMH students are often bused out of their neighborhoods to attend EMH programs. Both excessive referrals and arbitrary shifting of EMH classes from one school to another are problems that warrant further investigation in individual schools and administrative districts.

3

The History of Chicago's Misclassification Problem

Highlights

Q. Who initially raised the EMH misclassification issue and pressed for reform?

A. In 1974, a parent organization, composed of black and Hispanic parents and called Parents in Action in Special Education (or PASE), filed a lawsuit against the Chicago Public Schools charging discrimination in Chicago's EMH program. When the lawsuit came to trial five years later, the court decided against the parents, but they appealed. While this appeal was being pursued, the school system and PASE agreed to a settlement.

Q. How did the EMH misclassification issue become tied to the Chicago school desegregation lawsuit?

A. As part of its agreement with the federal government to settle the school desegregation lawsuit against Chicago, the Chicago school system made a commitment to adopt non-discriminatory procedures for placing children in EMH classes. The PASE lawsuit was settled because of the school system's willingness to make this commitment.

Q. What role has Designs for Change played in pressing the school system to carry out its commitment to reform the EMH program?

A. Designs for Change asked the judge in the desegregation lawsuit to require the school system to make very specific plans to reform the EMH program and to carry out those plans. In response to DFC's request, the school system indicated that it would change the testing procedures used to place children in EMH classes, retest all children currently enrolled in EMH, and provide transitional help to those children who were misclassified and should be returned to regular classrooms. Since then, DFC has sought to monitor the adequacy of the school system's activities in meeting this commitment.

Q. What has the school system done to carry out its commitment?

A. During the 1981-82 school year, the school system developed and pilot-tested a method for reevaluating all children currently in EMH classes. During the 1982-83 school year, the school system is retesting the more than 12,000 children in EMH and returning children that they judge were previously misclassified to the regular school program. This multi-million dollar project is the largest of its kind ever undertaken by a single school system. DFC has repeatedly sought detailed information about how this reclassification project is being carried out. The information that DFC has obtained indicates that this is a crash program with serious deficiencies that has the potential to bring further harm to thousands of children.

Chicago's EMH enrollment climbed from about 6,000 in 1960 to 12,000 by 1970 and has hovered around 13,000 to the present time.[72]

In the early 1970s, black and Hispanic parents and their advocates became concerned because a disproportionate percentage of minority students were being assigned to Chicago's EMH classes. A chronology of some important events that have occurred since that time is presented in Appendix C. Below, we briefly summarize the history of various efforts to deal with Chicago's EMH problem and the school system's response to these efforts.

Parents Challenge Misclassification in a Lawsuit

In 1974, a parent organization composed of black and Hispanic parents (Parents in Action on Special Education, or PASE) formed to fight discrimination in Chicago's EMH program. Assisted by attorneys from the Legal Assistance Foundation of Chicago, they filed a lawsuit against the Chicago school system (PASE v. Hannon).[73]

The lawsuit charged that the school system placed heavy reliance on the results of IQ tests for placing children in EMH classes, even though no scientific evidence existed showing that scores on these tests predicted which children would benefit from EMH programs, especially for minority children. The suit also charged that the school system failed to seek information and participation from parents when EMH placement decisions were made and failed to test children adequately to insure that they did not have other handicaps that might account for their learning difficulties.

It took more than five years until this case came to trial before federal Judge John Grady in January 1980. By that time, there was no city-wide disproportion for Hispanic students in EMH classes, so the PASE attorneys recommended that the lawsuit focus on discrimination against black students. While the parents and their attorneys presented evidence they felt established discrimination, the school system argued that the high percentage of black students in EMH classes could be traced to the higher incidence of poverty among Chicago's black students, which "interfered with the development of intellectual skills."[74]

Six months later, Judge Grady decided the case in favor of the school system. In a legal decision that has been harshly criticized by leading psychologists,[75] Judge Grady reviewed each question in the IQ tests being used in Chicago and decided that only a few of the questions seemed biased to him. This decision was appealed, but while the appeal process was progressing, a major change took place in the Chicago school system that eventually led to an agreement between the parents and the school system in the PASE case and a formal commitment by the school system to correct the EMH misclassification problem.

A New School Board Moves to Compromise on Race Discrimination Issues

Largely as a result of the school system's financial crisis, a new school board took office in May 1980. The new board was more open to negotiating about race discrimination issues which the school system had previously contested without compromise. To head off a legal confrontation with the federal Department of Justice about school desegregation, the new school board

entered into a legal agreement with the federal government (consent decree) that promised major steps to end "racial isolation" in Chicago's schools.

General commitments made in the consent decree to insure non-discrimination in all aspects of student assessment and placement in Chicago had implications for the EMH program, which was clearly suspect in its assessment and placement practices. A key requirement of the consent decree in the desegregation case (United States v. Chicago School Board) was that the school system would develop and carry out plans for student reassignment to promote integration and for improving the quality of educational programs for minority students, particularly those who would remain in all-minority schools.[76]

The school system and its attorneys viewed the EMH problem as one they should address as part of the desegregation effort, and they included provisions in their official desegregation plan that were designed to address the EMH issue and to end the PASE lawsuit. After negotiating with the PASE attorneys, the school system agreed that as part of its school desegregation effort they would stop using IQ tests in the EMH assessment process and would replace them with non-discriminatory testing procedures.[77]

Pressing the School System to Keep Its Commitments for Reforms in the EMH Program

At this point, Designs for Change, which has a long-term commitment to improving the quality of special education in Chicago, decided to press the school system to make its plans concerning the EMH issue more specific and to carry out in practice what it had promised on paper.

When the judge in the school desegregation suit asked for public comments on the adequacy of the school system's plans for carrying out the desegregation consent decree, Designs for Change focused on the EMH issue. DFC urged the judge to require that the school system:

- Provide a specific timetable for reassessing the more than 12,000 EMH students to see whether they belonged in EMH classes.
- Allocate sufficient staff to this process to insure that it could be carried out competently (DFC estimated that nearly 26,000 days of professional activity was needed).
- Provide transitional help to former EMH students moved back into the regular school program.
- Establish a record-keeping system to document progress in carrying out the reassessment project.[78]

The school system responded in documents submitted to the court by outlining tentative plans to address these issues. In what were characterized as staff plans that did not yet have the final approval of the school board, the school system described the major features of a massive student reassessment project, the largest ever undertaken by a single school system in the United States.

The school system's staff envisioned changing their procedures for EMH assessment, reassessing all present EMH students by the end of the 1982-83 school year, and providing extensive transitional help for students returned to the regular school program.[79]

In reaction to these plans, DFC pursued two basic lines of action.

First, DFC urged the judge in the desegregation case to require the school system to carry out its plans, which were promising but still preliminary, and to carefully monitor the school system's subsequent actions.[80] Second, DFC began seeking information about what the school system was actually doing and planning to do to put its plans into practice.

A Questionable Program about Which Little Can Be Discovered

In the period from September 1981 to November 1982, the school system planned and began to carry out a massive "reclassification project." The school system has taken the following steps during this period:

September 1981 to January 1982. The school system selected and developed new testing procedures for assessing and reassessing children for EMH programs, and called the resulting testing process the "Experimental Battery."[81]

February 1982. The school system began to use the Experimental Battery to test a portion of the children being referred for special education evaluations for the first time.[82]

April 1982 to June 1982. The school system retested 500 students in administrative Districts 2 and 19 who were then in EMH programs, using the Experimental Battery. The results were used to give 30% of the students tested new placements outside the EMH program.[83]

October 1982. The school system began to retest all children currently in EMH, using the Experimental Battery. Children judged to be misclassified are being given new placements. This process is to be completed by June 1983.[84]

As detailed in Appendix C, DFC has made repeated efforts to obtain information about the specifics of what the school system is doing in this reclassification project. Two major responses to these inquiries came (1) in a meeting with Dr. Ora McConner, Associate Superintendent for Pupil Personnel Services and Special Education Program Development, and top members of her staff in July 1982 (called the July meeting in this report) and (2) in a letter from Dr. Ben Williams, Associate Superintendent for Equal Educational Opportunity, dated November 1, 1982 (called the November letter in this report).

The school system has provided some pertinent information in these exchanges, but it has also refused to provide other information that DFC has repeatedly requested and has provided incomplete or contradictory information on a number of points.

Based on what Designs for Change has learned about the reclassification project, this project has a number of serious defects that can bring substantial harm to thousands of children; these children will either remain misclassified in EMH or will be returned to the regular school program with inadequate help in making the transition.

In Section 4, we describe the needed ingredients for an adequate change in Chicago's EMH program, based on generally accepted professional standards. In Section 5, we evaluate Chicago's reclassification project in light of these standards and describe some of the shortcomings of the reclassification project that make us deeply concerned about what is happening to the children involved.

4

Standards for an Adequate Solution to the EMH Problem

Highlights

Q. What are the steps through which a child ends up in an EMH class?

A. Children who are eventually placed in EMH classes usually exhibit some problems in learning or behaving in the regular classroom and are "referred" by their regular teacher to be evaluated to see if they have a handicap. They are then tested, and a psychologist and other school system staff judge whether the child belongs in a special education program and, if so, what kind of special program he/she should receive. The child's parents have a right to participate in this decision-making process. One possible result is that the child ends up in an EMH classroom.

Q. How many children normally get out of the EMH program once they become part of it?

A. Once they are placed in the EMH program, most children remain in separate EMH classes for the rest of their school career. The progress of EMH students is supposed to be reviewed annually, to see if they can move back to the regular program, but this review seldom moves the child out of EMH.

Q. What changes need to be made to keep children from being misclassified in EMH in the first place?

A. Regular classroom teachers need to be required to deal with more learning and behavior problems within the regular classroom and be given expert help in doing so. Children should be placed in EMH classes only as a last resort, after a set of stringent safeguards have been met. In school systems where these safeguards are in place, less than 1.25% of children from any ethnic group end up in EMH classes.

Q. What should be done for children now in EMH classes to see if they belong there?

A. All children in EMH should be tested using the strict criteria described in this section. Children who are returned to the regular school program as a result of this retesting should be given special transitional help and so should their teachers.

Q. What should be done for children who remain in EMH?

A. Even children who meet the new standards for EMH at a certain point in their school career quite frequently can return full-time to the regular program later on if they are given the right help. One key change that needs to be made in EMH programs is that many EMH children should spend a substantial amount of their school day in a regular classroom.

As noted in Section 1, EMH misclassification has been recognized for the past decade as a serious education problem in the United States, and much concrete research has been conducted about the nature of the problem and about practical ways to solve it. A strong consensus is emerging about what needs to be done to eliminate EMH misclassification and to upgrade EMH instructional programs.

This consensus is reflected in the recent recommendations of a national commission that studied the problem, the report of the consultants that the Chicago Public Schools hired to advise them about the problem, the experiences of other cities who have attempted to solve the problem, the standards established by professional organizations of psychologists, and the requirements of federal and state law.[11]

Based on consistent recommendations and requirements coming from these sources, the steps that Chicago should be taking to solve the EMH problem are clear.

Areas of Educational Practice Where Misclassification Is Created

There is no single factor that causes the EMH misclassification problem, but there are a limited number of key policies and practices that together create misclassification and severely limit the educational opportunities open to students once they are placed in EMH classes. Table 10 indicates ten key areas in which these problems arise.

In the middle of the diagram are the six of these ten areas of activity that most directly touch children:

- Regular Classroom Instruction and Referral. Most children who end up in EMH classes are "referred" for a special education evaluation by their regular classroom teacher.[11] Teachers usually refer children because they see them as having learning or behavior problems that can't be dealt with in the regular classroom.[12]

- Child Evaluation. If a child is referred and preliminary testing and observation suggest the child has a problem, the child is typically evaluated by a psychologist, who gives the child several tests. Usually, other information is gathered about the child (for example, a social worker interviews the child's parents).

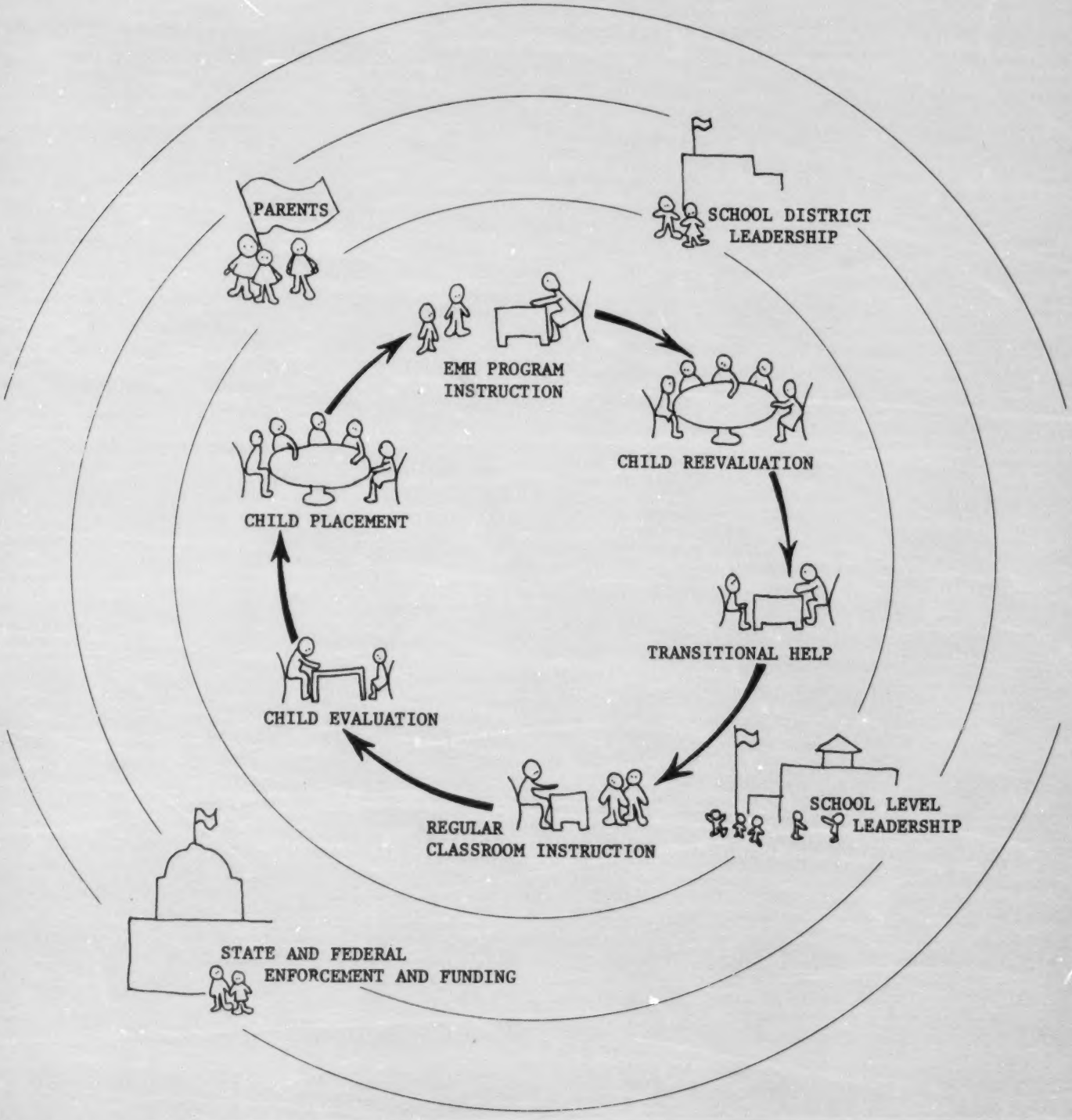
- Child Placement. Using the information gathered in the evaluation, a team of educators makes a decision about the child's placement, with parents having a right to participate. The team can return the child to the regular program, deciding that he she is not handicapped, or they can put the child in a part-time or full-time special education program. By law, the team must also write an "Individualized Educational Plan" to guide the child's special education program.[13]

- EMH Program Instruction. If a child is placed in an EMH program, it has frequently resulted in the child being taught in a separate EMH classroom for almost all of his/her school day. More recently, some school systems have established EMH programs that allow many children to spend some or most of their time in the regular classroom.[14]

- Child Reevaluation. By law, a child's placement in EMH must be reviewed annually, to see if the

Table 10

Ten Crucial Areas in Which
Changes Are Needed to
Eliminate Misclassification



child should remain in EMH, and a complete reevaluation of the child must be done every three years.[90] This process can result in the child being kept in EMH, being returned to the regular classroom, or being assigned to another special education program. Customarily, very few children labelled EMH have been returned to the regular program as a result of routine reevaluations.[91]

In the past decade, a number of school systems that have acknowledged a significant misclassification problem have undertaken large-scale reevaluation projects, using new procedures and standards for deciding whether a child should remain in an EMH program. These reform efforts have sometimes led to large numbers of children being returned to the regular school program.[92]

- Transitional Help. Some school systems have returned misclassified children directly from EMH to the regular school program, without any further special help. Others have recognized a need to give the transitioned child and the regular classroom teacher who will work with the child assistance in making the transition successful. Usually this means tutoring for the child and training or in-classroom assistance for the teacher.[93]

What happens in these processes of evaluation, placement, and instruction is shaped fundamentally by activities in the other four areas represented in Table 10:

- Parent Participation. As noted in Section 1, parents have extensive legal rights to participate in all aspects of the special education decisions that affect their children. In actual practice, this participation can range from signing permission forms to being active participants in decision-making about children's placements and programs.

- School Level Leadership. The school principal sets the tone for the way that special education is handled in each school. Principals encourage or discourage special education referrals, affect how thoroughly student evaluations and reevaluations are done, affect the degree of cooperation between EMH teachers and regular classroom teachers in their school.[94]

- School District Leadership. School district leaders establish and maintain crucial policies and practices for student evaluation, placement, and instruction. They are the key source of leadership for initiating and maintaining any comprehensive changes in regular and special education programs adequate to address the misclassification problem.[95]

- State and Federal Enforcement and Funding. The state and federal governments have clearly defined legal responsibilities to oversee special education programs and to prevent misclassification.[96] They can carry out these responsibilities vigorously or ignore them. The state especially plays a major role in funding special education, and the amount and nature of this funding affects the way special education is carried out at the local level.[97]

These brief descriptions of the areas where problems need to be addressed to eliminate misclassification and improve the quality of EMH programs should illustrate that a meaningful solution touches many parts of the educational system. Changes must occur not only in policies, but also the customary ways that educators have developed

for dealing with children day-to-day. Powerful misconceptions about children labelled mentally retarded must be overcome. Misclassification does not lend itself to a quick fix.

However, well-planned actions in the ten areas just described over a period of several years can eliminate the EMH misclassification problem.

Changes Needed to Eliminate Misclassification

Below, we describe in more detail the actions needed in each of the ten areas portrayed in Table 10 if misclassification in EMH and the detrimental effects of EMH classes on children are going to be eliminated.

Limiting Inappropriate Referrals. In school districts with large numbers of children in EMH classes, some regular classroom teachers and school principals have "referred out" large numbers of children for special education evaluations, although the child's learning or behavior problems should have been handled in the regular classroom.[98] Many who have studied misclassification see such continued inappropriate referrals as the basic driving force that creates misclassification and frustrates attempts to eliminate it.[99] A number of school systems elsewhere have instituted large-scale projects to return misclassified students to the regular school program, similar to the one now underway in Chicago. However, they didn't attack the problem of inappropriate referrals, and within a few years the numbers of children ending up in EMH classes (or in other stigmatizing special education programs) started to creep back up toward former levels.[100]

One crucial change that is needed to avoid such long-term problems is that regular classroom teachers must be required to deal with more learning and behavior problems within the regular classroom and they must be given expert help in doing so.

When a child is having difficulty in the regular classroom and the child's teacher believes that the child may need special education help, two things should happen: (1) the teacher should seriously attempt at least three different approaches to dealing with the child's problem within the regular program before the child is referred for special education evaluation, and (2) the teacher should receive help in modifying the child's program from an expert resource teacher.[101] (Research about the circumstances under which this process actually takes place indicates that the school principal's leadership is critical in making this process happen, as discussed later.)[102]

Some school districts have responded to the referral problem merely by holding training sessions for teachers, but this is inadequate. Such training sessions are helpful in dealing with the problem only as a part of an ongoing program of in-class help for regular classroom teachers from an expert resource teacher who has the active support of the school principal.[103] Unless skilled resource teachers work with classroom teachers on a continuing basis to solve specific children's educational problems, merely offering a few training sessions on correct referral procedures will do little to prevent misclassification from recurring in the long term.

Improving Safeguards in Case Study Evaluations. Given the dangers involved in placing a child in an EMH class, a series of safeguards should be used in evaluating children for EMH placement, so that only those children will be placed in EMH classes who show extremely limited

skills for functioning both inside and outside school and who have failed to respond to other teaching methods. The law, the judgment of professional groups involved in testing, and research about the issue reflect a broad consensus that a child who is referred for special education evaluation should be recommended for EMH placement as a last resort, and only if all three of the following requirements are met:

- The child has been tested for other handicaps, such as health problems, vision problems, hearing problems, emotional problems, and learning disabilities that might account for the child's difficulty in learning.[104]
- The child ranks in the bottom 2.3% of students on a "valid and reliable" test of intellectual ability.[105]
- The child ranks in the bottom 2.3% on a "valid and reliable" test of "adaptive behavior," which draws on information about the child's ability to perform everyday tasks of living outside of school, such as dressing, making purchases, moving independently around the neighborhood.[106]

The requirements that these tests be "valid and reliable," which are demanded by federal and state law, as well as of such professional groups as the American Psychological Association and the National Association of School Psychologists, are absolutely vital protections for students.[107] Test procedures for EMH placement are reliable if, among other things, testing procedures are clear enough so that two different testers administering the test to a student would come up with the same results.[108] Test procedures for EMH placement are valid if there is evidence that the test (or set of tests) is effective in consistently identifying that small number of students who demonstrate such limited intellectual functioning inside and outside of school that they will profit more from being in an EMH class than from being in the regular school program.[109]

When such safeguards are in place, it has consistently been found that no more than 1.25% of the students enrolled in a school district who are from a particular ethnic group end up in EMH classes.[110] As Table 3 indicates, this is the case in Los Angeles and in Houston, two of the largest urban school systems, where specific safeguards have been put in place.[111]

These standards have not been met in many special education testing programs in the past, including Chicago's. As a result, the percentage of both black and white students in Chicago's EMH classes far exceeds 1.25% (see Table 3). In Chicago, adequate tests of adaptive behavior outside of school have not been used.[112] Placement has often been based primarily on an IQ test score, and experts on mental retardation agree that the cut-off score that students had to achieve to avoid being placed in EMH was much too high.[113] Further, there is no research indicating that the IQ test score accurately identifies children who can benefit more from being in EMH classes than being in the regular classroom, and this is particularly true in the case of minority students.[114]

Improving Safeguards in Student Placement Decisions. Once a student is evaluated, the law requires that a number of educators familiar with the student, as well as the student's parents, meet to discuss whether the student should be placed in an EMH program or some other special education program or should

remain in the regular classroom.[115] If the student is to be placed in an EMH program or some other special education program, an "Individualized Educational Plan" or "IEP" must be drawn up to guide the student's program.[116]

One crucial aspect of the placement decision for a child labelled EMH is whether the child can continue to spend most of his/her time in the regular program, while receiving part-time tutoring in a resource room, or whether the child should spend the most time in a "self-contained" EMH classroom. School districts are required by law to have both options available for EMH students, but there are almost no resource room programs for EMH students in many cities, including Chicago.[117] Further, as discussed in Appendix B, children assigned to EMH classes are often bused to other schools for the EMH program for reasons of administrative convenience rather than educational benefit.[118]

Ideally then, the decision about a child's placement should be made with the full participation of the child's parents; should result in an Individualized Educational Plan that describes the specific educational program the child should receive; should be based on his/her individual strengths and weaknesses; should normally allow a child to remain in his/her neighborhood school; and should place the child in a part-time resource room if this is appropriate.

The reality of the placement process, in Chicago and in many other school systems, is that parent involvement often consists merely of "signing off" on a decision made by educators,[119] that IEPs are often vaguely written,[120] that EMH placement results in the child being bused to another school, and that EMH placements almost always put the child in a self-contained EMH classroom rather than a part-time resource room.[121]

Improving the Quality of EMH Instruction. As described earlier, EMH instruction is frequently based on very low expectations for the children involved, who are regarded as permanently impaired. EMH curricula are often a slightly upgraded version of the curricula designed for TMH children.[122] Individualized Education Plans for EMH children are often not adequate to guide their day-to-day learning, or they are not followed.

A set of needed improvements in the quality of EMH instruction are clear. EMH children should be seen as children who have learning problems that can be overcome with the right instruction.[123] Many should spend the majority of their time in the regular school program and receive extra help in a part-time resource room.[124] Detailed individual plans for their education must be developed and followed, based on the goal of returning many children to the regular school program on a part-time or full-time basis.[125]

Reevaluating EMH Students Thoroughly. In a school system like Chicago, which has not applied adequate safeguards in assessing EMH students in the past, all children currently in EMH classes should be carefully reevaluated. It should be the working assumption of the evaluators that the children being tested belong in the regular program unless the testing proves otherwise.[126] Children should stay in EMH only if, as noted above, the evaluation shows that the child's problems are not caused by another handicap, the child ranks in the bottom 2.3% on a valid and reliable test of intellectual functioning, and the child ranks in the bottom 2.3% on a

valid and reliable test of adaptive behavior outside of school. Based on this reassessment, one of three things should happen:

- Children who do not qualify as EMH and do not have other handicaps should be returned to the regular classroom. However, since these children are likely to have suffered harmful effects from being in an EMH class, both the "transitioned" children and their regular classroom teachers should be given special help from an expert resource teacher for a transition period.[127]

- Children who have other handicaps should be given the appropriate form of special education help (for example, help from a learning disabilities resource room while they spend most of their time in the regular school program).[128]

- Children who are still judged to be "Educable Mentally Handicapped" should have a new Individualized Educational Plan drawn up for them. Those developing the child's program should tailor the plan to his/her strengths and weaknesses, as well as the child's ability to spend part or most of the time in the regular classroom.[129]

After this major reclassification project is completed, students' placements in EMH classes should continue to be reviewed annually to see if they still belong in EMH. Teachers and evaluators working with EMH students should always assume that their goal is to help as many students as possible move back into the regular school program.[130]

Carrying Out an Adequate Transition Program. For both a large-scale reclassification project and for the ongoing process of helping children move from the EMH program back into the regular classroom, it is vital that the transitioned student be given special help for a period of time from an expert resource teacher and that the children's new teachers in the regular classroom also be given special training and, most important, in-classroom help.[131]

Champaign, Illinois, carried out such a transitional program, and it is considered a national model for the design of an effective program.[132] Follow-up research in Champaign indicates that students formerly in EMH classes have made very good academic progress in the regular classroom as a result of the transitional help given them and their new teachers.[133] In contrast, when misclassified children who have been in EMH programs are merely "dumped" back into the regular classroom, they stand a good chance of falling behind, becoming discipline problems, being expelled, dropping out, or being referred for special education evaluations once again.[134]

The longer a student has been in an EMH class and the older the student is, the more serious the problems of transition become. Students who have been mistakenly treated as retarded for many years are typically far behind their age group in their academic achievement. And high schools, with their many courses taught by different teachers, find it harder to adjust their program to help a misclassified student make a successful transition to their regular program. In a school system like Chicago's with a substantial percentage of EMH students in high school, inadequate transitional programs are especially likely to result in transitioned students leaving school altogether.[135]

Strengthening Parents' Informed Participation. Experts on misclassification conclude that much

misclassification could be avoided if educators made a greater effort to seek information from parents about their children and to insure parents' informed participation in decisions about their children, as required by law.[136] However, rights that parents have on paper are often undermined in practice. Parents have not been fully informed about what is going to happen to their children; many parents in Chicago and elsewhere whose children have been placed in EMH classes have only been told that their children were going to get some "special help." Educators often ask parents to give written permission for evaluations and placements but become hostile when parents try to offer opinions in this process.[137]

Both the law and sound educational practice demand that parents be asked to help educators understand a child's problem when the child first has trouble in the regular classroom; that parents approve a case study evaluation for special education after a full explanation of what is involved; that systematic objective information be gathered from parents as part of the child's case study evaluation; and that parents be encouraged to participate in placement decisions and IEP development, with their views being taken seriously.[138]

Strengthening Leadership from School Principals. School principals have often played a crucial role in creating misclassification, and they are key to stopping it. In schools where excessive numbers of students are referred for EMH assessment, the principal often condones the attitude that regular classroom teachers can "refer out" or "blue-slip" large numbers of children and that regular classroom teachers don't need to solve learning and behavior problems in their own classroom.[139] The principal who is a poor educational leader does not insure that help is provided to teachers who are having problems and making many referrals.[140] Some principals encourage teachers to make referrals when there are not enough students in special education and the school is in danger of losing a special education teacher.[141]

The needed changes in referral, assessment, instruction, and reclassification will not work in practice unless principals provide leadership in making these things happen in each local school and are held accountable for doing so.[142]

Strengthening Leadership from Top School District Administrators. Since an adequate solution to the misclassification problem involves major changes in the behavior of special education administrators, school principals, psychologists, special education teachers, regular classroom teachers, and other school district staff, this change must be actively directed by the superintendent of schools.[143] The superintendent, as well as the superintendent's top administrators in charge of regular education and special education programs, must make sure that formal policies for student evaluation are changed, that sufficient well-qualified staff are allocated for student reassessment and for transition programs, that teachers are provided with effective help so they can avoid excessive referrals, etc. Top leadership must fight to overcome the pervasive low expectations about students labelled EMH that will threaten the effectiveness of each step taken to solve the misclassification problem.

Once staff are allocated and policies set, top administrators must continue to monitor these plans to see that they are actually carried out. There are particular dangers for breakdowns when several different parts of the school system (such as the special education department

and the school principals) must coordinate with each other; only strong consistent leadership from the top can eliminate these problems.[144]

In the model reclassification and transition program carried out in Champaign, Illinois, the school superintendent, Dr. James Mahan, made reform of the EMH program one of his top priorities for several years.[145] Reform efforts have encountered major problems when they have been carried out primarily by special education departments, since critical aspects of the problem are outside the control of special educators.[146]

Besides providing leadership for a major short-term change in the EMH program, top school district administrators must monitor the special education system from year to year, looking for any indications that the misclassification problem is reemerging. They should, for instance, collect, analyze, and make available to the public information about the number of referrals for special education and the number of placements in special education by ethnic group originating in each school in the system.[147] This will allow school district leadership and the public to look for evidence that the misclassification problem is reappearing and to take appropriate action.

Increased State and Federal Enforcement and Changes in State Funding Procedures. While strong state and federal requirements are on the books that could be used to help eliminate misclassification, neither level of government has typically carried out its legal responsibilities to enforce these requirements.[148] Data about the racial composition of special education programs have not been used as a basis for investigating potential misclassification and discrimination in many states.[149] The standard format for state and federal site reviews of special education programs has not included investigating misclassification issues.[150] When complaints have been lodged about misclassification problems, investigations have not been carried out vigorously and sanctions have not been applied.[151]

The state, which has a clear legal obligation to enforce both state and federal requirements prohibiting discrimination, must carry out its legal responsibilities.

Further, state funding procedures have played a role in encouraging misclassification by providing an incentive to create and to maintain EMH classes.[152] In addition to enforcing present law so that the state doesn't encourage misclassification, state governments should provide some financial help to encourage local school districts to solve the misclassification problem. States should provide funds for resource teachers to work with regular classroom teachers in solving learning and behavior problems within the regular classroom and funds for transitional programs to return special education students to the regular school program with appropriate help in making the transition.[153] And states should consider changes in their definitions of handicaps that will guarantee special services to children who need them while protecting these children against unnecessary stigma and isolation from the regular school program.[154]

Applying the Standards to Chicago

Section 5 judges the Chicago reclassification program in light of the generally accepted criteria for a comprehensive solution to the misclassification problem just described.

5

Chicago's Reclassification Project: Shortcomings and Unknowns

Highlights

Q. How adequate are the testing procedures being used in the reclassification project?

A. Chicago decided to ignore well-established standards for testing children to see if they belong in EMH. Instead they decided to develop their own "Experimental Battery" of tests. In the early phases of pilot-testing this Experimental Battery, the school system abandoned essential research efforts needed to establish whether the experimental tests were adequate for the decisions being made about children. The school system then moved ahead to use these unproven tests in making decisions about thousands of children.

Q. What are these experimental tests like?

A. The school system has repeatedly refused to allow DFC to examine these tests. However, the information available indicates that they give the psychologist wide latitude to judge whether a child should stay in an EMH class, opening the door for thousands of children to remain misclassified.

Q. How adequate are the transitional programs being provided to children who are reclassified?

A. In many instances, no transitional programs are available. The transitional programs that are available fail to meet minimum standards of adequacy when compared with effective transition programs in other cities. Staff from individual schools and administrative districts are being left largely to their own devices in deciding how to handle reclassified children without adequate resources or guidance. The result is being referred to by teachers involved as "a fiasco," "a disaster."

Q. How is the EMH program being changed for those children who remain in it?

A. By and large, no change is taking place. Children still in EMH are not, for instance, being given new placements that allow them to spend more time in the regular school program. Children judged to still qualify for EMH programs are merely being returned to their former classes.

Q. How adequate is the leadership being provided for the reclassification project?

A. There is no evidence of effective leadership for the reclassification project in the day-to-day reality of what is happening to the children involved. Chicago's misclassified children continue to be caught in a web of poorly defined and misguided policies and practices.

The adequacy of Chicago's response to the misclassification problem should be judged in light of the standards described in Section 4. Based on these standards, there are a number of major shortcomings in Chicago's efforts to remedy misclassification:

- The tests and testing procedures being employed by the school system are grossly inadequate for the decisions about children's futures that the school system is making.
- The transitional programs promised for the thousands of children being returned to the regular education program either do not exist or fail to meet minimum standards of adequacy.
- Parental involvement in this decision making is frequently rushed and does not allow parents to have an impact on decisions that affect their children.
- No substantial effort is being made to improve the diversity and quality of special education services for children who will remain in the EMH program.
- There is no evidence that longer-term plans are being made or mechanisms being put in place to keep the misclassification problem from recurring.
- Leadership from the top administrators of the school system is lacking, both for short-term and long-term changes that are needed.

Below, we briefly discuss each of these points in turn, elaborating on the text in explanatory footnotes.

The Testing Procedures Being Employed Are Inadequate

As described in Section 3, the school system is using an "Experimental Battery" to test children in its reclassification project. The procedures that the school system has employed to develop, pilot test, and utilize the Experimental Battery are inconsistent with generally accepted approaches to solving the EMH problem and with generally accepted standards for the development and use of tests.

As noted in Section 4, a consensus of professional opinion indicates that decision makers retesting children classified as EMH should proceed with the working assumption that these children belong in the regular school program unless the testing shows otherwise and should recommend that a child remain in EMH classes only if retesting shows that:

- The child does not have other handicaps, such as vision problems, emotional problems, and learning disabilities that might account for the child's learning difficulties.
- The child ranks in the bottom 2.3% of students on a "valid and reliable" test of intellectual ability.
- The child ranks in the bottom 2.3% of students on a "valid and reliable" test of adaptive behavior.[155]

The school system's effort to identify tests and testing procedures adequate for making these critical

decisions about children has resulted in a set of test instruments it refers to as the Experimental Battery. According to the "November letter" from the school system responding to Designs for Change inquiries about the misclassification project, the Experimental Battery consists of eight testing instruments (see Appendix D).[156] Some of these instruments were developed elsewhere. However, it appears (although this is not entirely clear) that the school system is either developing some of its own instruments or making major modifications in instruments developed by others.[157] They have repeatedly refused or ignored our requests to examine the instruments directly.[158]

Below, we enumerate the problems with this test battery and its use, based on the information that has been made available to us.

The Experimental Battery Was Used from the Beginning to Make Decisions about Children's Futures. Accepted practice in test development requires that tests or test batteries in the developmental stage should not be used to make critical decisions about children, or if this is done, informed consent should be obtained from the child's parent.[159] Informed consent involves explaining the experimental nature of the testing procedure and its possible benefits and risks.[160] All available evidence indicates that these standards were not followed.

The tests were, beginning in February, substituted for previous testing procedures for many children and used as the sole basis for determining whether or not they belonged in EMH classes.[161] Parents provided written consent for testing, but were not advised of the experimental nature of the process, so that they could reach an informed judgment about whether to allow their children to participate in it.

The Attempt to Gather Research Data about the Experimental Battery Was Abandoned, but the Full-Scale Use of the Battery Has Proceeded. The school system initially told DFC that the pilot reassessment project conducted from April to June 1982 represented an effort to establish the technical adequacy of the Experimental Battery for wider use. DFC repeatedly has sought information about the results of this pilot testing. In the November letter, the school system finally responded by indicating that, in fact, no such research analysis concerning the technical adequacy of the Experimental Battery has been carried out. As the November letter states, "limited staff and resources (time and funding) impedes a quick culmination of this activity" (see Appendix D).

Accepted professional practice would dictate that the wider use of the Experimental Battery should be suspended until appropriate data gathering and analysis have been completed.[162] Instead, the school system is moving ahead to use the Experimental Battery to test thousands of children.

The School System Has Failed to Present Adequate Evidence about the Reliability and Validity of the Experimental Battery and Its Component Tests. Acceptable test reliability and validity are two of the bedrock requirements for appropriate test development and test use.[163] As noted in Section 4, reliability refers to the ability of the testing procedure to yield consistent results (e.g., if the same child were tested twice either by the same tester or by two different testers, similar test results should occur). Validity refers to the capacity of

the testing procedure to accurately identify that small percentage of children who have such limited intellectual functioning inside and outside school that they will profit more from being in an EMH program than in a regular classroom.

The American Psychological Association (APA) and other professional associations have jointly developed more than 100 separate standards that they term "essential" for test reliability, test validity, and other aspects of test development and use.[164] All psychologists are ethically bound to adhere to these standards.[165] The APA notes that it is particularly important that these standards are followed when crucial decisions are being made about children's futures, and APA explicitly cites the placement of minority students in EMH classes as one such critical decision.[166] One APA standard states that:

> A test user is responsible for marshalling evidence in support of his claims of validity and reliability. The use of test scores in decision rules should be supported by evidence. Essential.[167]

A table in the school system's November letter (reproduced in Appendix D) constitutes the school system's attempt to marshal such evidence.

The most critical factor determining beneficial or harmful impact of the school system's testing procedures on children is the reliability and validity of the Experimental Battery "as a whole."[168] Absolutely no evidence is presented on this point in the November letter.

Further, the table reproduced in Appendix D presenting the school system's analysis of reliability and validity issues makes only vague and cursory statements about the reliability and validity of individual tests.

Concerning test reliability for individual tests, the school system presents no reliability data about four of the eight instruments and asserts, without providing further evidence, that the reliability of three of the remaining instruments is "excellent," "relatively satisfactory," and "somewhat poor."[169]

Concerning the validity for individual tests, no information is presented about four of the individual instruments. The school system's comments on validity describe one test as having "a high degree of correlation," two as having "satisfactory" validity, and one as "relatively satisfactory" validity, without further elaboration. The school system's comments about test validity are particularly deficient, since both the law and accepted professional practice require that tests be validated for the particular purpose for which they are being used.[170] The APA particularly cautions test users to avoid the sorts of unqualified statements about test validity made in the November letter.[171]

Designs for Change asked school system staff about the reliability and validity of the Experimental Battery in the July meeting with them. We were repeatedly told that such considerations were not relevant in the "new approach" the school system was using. One school system staff member responsible for the reclassification project expressed the view that trying to abide by standards of reliability and validity "was what got us in trouble in the first place."

The school system staff appear to hold the mistaken view that discrimination in test procedures can be avoided if testers are given wide

discretion in interpreting student responses. In fact, as is repeatedly emphasized in the APA standards, this subjective approach creates a high risk that discrimination will occur.[172] The school system's own consultants clearly recognized this danger and repeatedly warned against it in their recommendations, but these warnings were ignored.[173]

The "Test Teach Test" Approach, Which Is Central to the School System's Effort to Judge Intellectual Functioning, Has Special Difficulties. In our conversations with the school system staff, they placed great emphasis on their adaptation of an approach to assessing intellectual functioning developed by Reuven Feuerstein, an Israeli psychologist.[174]

Feuerstein has worked extensively with Israeli children labelled culturally disadvantaged and retarded. Arguing that conventional intelligence tests do not adequately measure the underlying potential to learn possessed by many children, he has developed an alternative testing approach. Children are taught to perform a task by the tester and then the tester judges the children's capacity to apply what has been taught in similar tasks.

Feuerstein's method yields information about how a child learns, and the strengths and weaknesses of the child's approach to learning are interpreted in light of a complex theory Feuerstein has developed about the functioning of the human mind.[175]

An essential part of Feuerstein's method is that the child receive follow-up instruction based on Feuerstein's scheme for analyzing the child's strengths and weaknesses, as clarified through the testing.[176] Feuerstein and his colleagues in Israel have spent years, not only testing children, but also providing instruction to them consistent with Feuerstein's unified scheme for testing and instruction.[177]

Feuerstein acknowledges that many who have observed him testing children "have tended to attribute his success to what they have labelled his 'personal charisma'."[178] He counters that the major proof that his testing approach is valid comes when children make progress in remedial instruction based on the testing.[179]

Feuerstein's own testing procedure is called the "Learning Potential Assessment Device." It appears that the school system has adapted his approach and developed their own testing procedure, which they call "Test Teach Test."

We have already noted that the school system has failed to produce any evidence of reliability and validity of its modified version of Feuerstein's approach. In addition, none of the key conditions that were present in Feuerstein's program in Israel are present in the Chicago situation. The school system psychologists who are testing children in Chicago are not working with these children or their teachers over an extended period of follow-up instruction. No intention has been expressed or reform program set in motion to incorporate Feuerstein's instructional methods into the Chicago school curriculum.

In Chicago, psychologists are moving from school to school, testing children for a few hours, and then making recommendations about whether or not they should remain in EMH classes. And as we will document below, there could not be a starker contrast between Feuerstein's attempt to link testing with subsequent instruction and the haphazard and largely non-existent transitional program for children in Chicago.

The School System Has Not Produced Evidence That It Is Using a Reliable and Valid Test of Adaptive Behavior. A critical tool in limiting discrimination in other school systems has been the use of an objective test of adaptive behavior, one that focuses on the ability of the child to carry out the everyday tasks of life outside the context of the school.[100]

Only one test of adaptive behavior is contained in the Experimental Battery, and no information is presented about its reliability and validity. It is an experimental test.[101] Since there are several widely used adaptive behavior tests about which considerable research has been done, it is unclear why the only adaptive behavior test being used in Chicago is still in the experimental stage.[102]

There Has Been Insufficient Training for Testers Who Administer the Experimental Battery. The APA requires that administrators who oversee testing insure that staff administering tests are adequately trained.[103] Careful training becomes especially critical in light of the experimental and evolving nature of the testing procedure being employed in Chicago.

In the November letter, the school system provided detailed documentation of less than three hours of group training for the psychologists who are now using the Experimental Battery.[104] In addition, a school system progress report released in May 1982 makes the general statement that special education administrators are providing "ongoing assistance and follow-up to staff in alternative assessment techniques, adaptive behavior scales, and interview/observation skill-building," but no specifics are provided.[105]

When Feuerstein trained psychologists from the New Haven Public Schools in the use of his method, he led an intensive ten-day full-time workshop for all those giving the test.[106]

Based on available evidence, the school system's training in the use of the Experimental Battery is grossly inadequate.

The Promised Transition Programs Are Woefully Inadequate

Reports from individual schools where the reassessment process is taking place indicate that additional staff members have not been made available to work with transitioned children, except for EMH teachers freed up by reductions in their class enrollments. Further, no coherent program of advice and one-to-one follow-up is being provided for those regular classroom teachers dealing with transitioned children. Staff members from individual schools and administrative districts have been left almost entirely to their own devices to develop a transition program. Some are trying their best to develop a program with limited guidance and resources; many are avoiding the problem. Thus, many children are being returned to the regular classroom with no effective help being provided either to the receiving teacher or the transitioned child.

Teachers and other school system staff have described the resulting situation as "a fiasco," "a disaster." In contrast, the November letter from Dr. Williams describes the objectives of the transition program in glowing terms. For example:

The transition process will incorporate the following: facilitation of joint curricular planning between special and general education teachers; provision of a functional delivery system to transition the student into regular education; and assistance to the student in obtaining and improving the skills and behaviors necessary for successful participation in general education.

However, even the November letter describes only a very limited transition program as being "operable at this time." The transition program described in the November letter consists of four "models" which are described in an attachment to the letter titled "Transition Program Models Piloted in Districts 2 and 19."

It should be noted that if these programs are indeed being pilot tested in these two districts, this process began only recently, since most students were not reclassified in Districts 2 and 19 until the end of the last school year. It is not clear whether the school system is claiming that these transition programs are operating in the school system's other 18 districts, even though thousands of children are now being tested in these districts. In at least one administrative district where we interviewed school staff, there is no transition program at all.

In the November letter, the four models for the transition program are each described in one to two pages, plus a sample student schedule. They are as follows:

- A special education resource room in which transitioned students spend some portion of their day, while spending the rest of their time in the regular program. These resource rooms are to be staffed by EMH teachers freed up by reduced enrollment in their EMH classes.

- A combined class consisting of both transitioned EMH students and regular education students with learning problems. The class is to be taught collaboratively by a former EMH teacher and a regular education teacher.

- A part-time resource room for transitioned high school students that focuses on basic skill development and "skills necessary for successful employment in the job market." It is not indicated who should teach in such a program, which is described as "an administrative option."

- A full-time placement in a class for the Educationally Handicapped in an Education Vocational Guidance Center.

<u>The language of these brief program descriptions indicates that these four options are suggestions for school administrators. No training is promised. Nothing is required. Except in the last option, former EMH teachers freed up by shifting enrollment are the only staff made available to teach in these transition programs</u>.

In addition to the transition programs, the November letter states that in-service sessions are being carried out for teachers to inform them about the reassessment and the transition program and that a related set of handbooks is being distributed.

<u>Even on paper, this transition program lacks a number of crucial ingredients that have been present in effective transition programs carried out in other school systems</u>:

- No strong leadership in setting up the program is coming from the

central administration; no requirements for program quality are being set.

- No additional staff resources have been allocated to the program, beyond those EMH teachers who happen to be available in individual schools.

- A critical ingredient of other successful transition programs, skilled advisory help in the classroom for the regular classroom teacher, is not being provided.

- EMH teachers with a long history of teaching in self-contained special education classrooms are now cast in the role of resource teachers. In the successful transitional program carried out in Champaign, Illinois, program designers purposely did not use any former EMH teachers in this role, since they felt that these teachers had neither the skills nor the positive expectations that would help transitioned students succeed in the regular classroom.[187] Despite the obvious mismatch between the EMH teachers' past experience and their new role as resource teachers, no intensive retraining is being proposed or carried out for them.

- The transition plan fails to recognize the special difficulties of moving older students from EMH classes back into the regular school program.

- The fourth transition "model," in which former EMH students are placed in full-time classes for the Educationally Handicapped (EH), consists merely of moving EMH students from one racially segregated and isolated setting to another. As documented in Section 2, the EH program is the most racially segregated of all Chicago's special education programs, being more than 90% black. Further, 96% of EH students are in separate classrooms, including 76% in separate special schools. As we recommend in Section 2, the EH program itself is a prime candidate for intensive scrutiny for possible discrimination. It is hardly a suitable placement for former EMH students judged not to be retarded.

Based on interviews with school system staff involved in the reassessment, one negative effect of the absence of a well thought out transition program is that psychologists are reluctant to recommend that a child be reclassified, even if they believe that the child could succeed in the regular program with the right transitional help.

Informed Parental Involvement Is Not Being Effectively Encouraged

DFC advises parents throughout Chicago in their efforts to obtain appropriate special education programs for their children. With some notable exceptions, the school system's customary methods for dealing with parents in the special education decision-making process is to obtain signed permission forms, rather than to encourage parents to be actively involved in decision-making meetings.

Available evidence indicates that these shortcomings are being intensified rather than remedied, in the current reclassification effort. Designs for Change and other groups that assist the parents of handicapped children in Chicago have received complaints from parents across the city that the rushed nature of the reclassification does not allow them to have meaningful input about their children.

The EMH Program Itself Is Not Being Reformed

In Section 4, we indicated that an essential aspect of addressing the EMH problem was to develop better Individualized Educational Plans for children who will still remain in EMH programs, to take steps to insure that these plans are carried out, and to move many EMH students from self-contained EMH classes to part-time participation in the regular school program.

The school system's greater emphasis on generating information through the retesting process about how a child learns is one important positive development that might be useful in bringing about these needed changes. However, nothing else in the school system's description of the reclassification project or in our interviews with teachers and assessment staff provides evidence that an effort is underway to help EMH teachers use this information. Available evidence indicates that children still judged to be Educable Mentally Handicapped in the retesting are merely being returned to their former classrooms.

No evidence has been provided by the school system that new approaches to instruction are being instituted in EMH classes or that EMH resource rooms are being set up to allow EMH students to participate in the regular school program. Some of the options for the transition program described above, in which EMH teachers assist former EMH students who participate in the regular school program, would be more appropriate for students who are still judged to be Educable Mentally Handicapped but who could spend more time in the regular classroom.

Reforms in Referral Practices Needed for the Longer Term Are Not Being Initiated

As indicated in Section 4, many who have studied misclassification believe that one of the most critical places where reform is needed is in the regular classroom, where action is needed to avoid inappropriate special education referrals. Regular classroom teachers need new skills and extra assistance to deal with learning problems and must also be held accountable for doing so.

Clear requirements are needed that teachers should seriously attempt three different methods for aiding a child who exhibits a learning or behavior problem before referring the child for special education assessment. However, paper requirements will mean nothing unless teachers are given in-classroom help in planning such alternative approaches and carrying them out.

The school system's communications with DFC do not indicate that a serious program is underway to avoid inappropriate referrals for EMH assessment by helping teachers deal with children's problems within the regular classroom.

Leadership from Top Administrators Is Lacking

The one aspect of the school system's approach to the misclassification problem that has substantial reality at the school level is the retesting and reclassification of children. As documented earlier, this effort is misguided and has the potential to harm many children, who will still be misclassified. Since

the reclassification effort flies in the face of generally accepted approaches to the problem and to the recommendations of the school system's own consultants, the top leadership of the Office of Pupil Personnel Services and Special Education Program Development, who developed the present retesting program, must take the responsibility for changing it.

Unlike the retesting process, which is actually being carried out, other aspects of the board's effort to address the misclassification issue exist primarily on paper. The transitional program, for instance, lacks coherent planning and requirements, allocation of staff with appropriate skills, and the training and follow-up assistance to teachers needed to bring it off.

A major reason for this lack of follow-through is that such problems as carrying out a good transitional program and improving the special education referral system require collaboration among many parts of the school system and cannot be carried out by any single office. The General Superintendent of Schools and other administrators with responsibility for coordinating these diverse parts of the school system have not acted to avoid or correct these inadequacies.

Needed Changes

In Section 6, Designs for Change describes the short-term and long-term changes needed to bring Chicago's reclassification project up to adequate standards and to eliminate the EMH misclassification problem.

6

Recommendations for Action

Highlights

Q. Overall, what should be done to solve Chicago's misclassification problem?

A. In the short term, the current reclassification project should be temporarily suspended. Nationally recognized experts on misclassification should be engaged by the school system to recommend how this program can be put on the right track. In the longer term, the school system must correct the deep-seated problems that cause misclassification (such as the excessive numbers of children referred for special education evaluation). Other problems of inequity in special education documented in this report (such as the lack of availability of special education services for Hispanic children) must also be corrected.

Q. What role should the state of Illinois play?

A. The state of Illinois has clear legal responsibilities to guard against misclassification. The state should launch an immediate and thorough investigation of misclassification in Chicago's special education programs.

Q. What should professional associations of psychologists do?

A. The American Psychological Association and the National Association of School Psychologists have been alerted to apparent violations of professional standards in Chicago. If Chicago continues its present activities, these groups should launch an investigation of the reclassification project and should impose appropriate sanctions.

Q. What should parent and citizen groups do?

A. Parent and citizen groups will be the catalyst for making the needed short-term and long-term changes. Vocal, well-informed, and long-term advocacy for children is needed from parents and citizens, who should press for the suspension of the reclassification project, press for other short-term and long-term action by the school system and the state, investigate misclassification in local schools, and help individual parents whose children are being reclassified.

Q. What is Designs for Change planning to do?

A. Designs for Change has made a long-term commitment to eliminate the misclassification problem in Chicago. In the short term, we will press for the school system and state actions described above; operate a parent hotline to advise parents of EMH children; provide written information to concerned parents, educators, and citizens; and hold training sessions for parents of EMH children and those who want to assist them.

Short-Term and Long-Term Action Is Needed

The present situation demands urgent action. Although DFC has been a major voice calling for the retesting and reclassification of EMH students, we reluctantly conclude that the present reclassification program is so flawed and has so much potential to harm children that it should be suspended until basic changes are made. If the school system refuses to do so, it will be necessary for concerned educators, parents, and citizens to exert sufficient pressure to convince the school system to suspend the present reclassification effort and redesign it so that it serves children better.

However, even when satisfactory short-term changes are achieved, a basic comprehensive improvement in the misclassification problem will require a coordinated effort that extends over a period of years. No one should believe that the basic dynamics that have created the largest EMH misclassification problem in the United States will be quickly or easily changed.

For example, a comprehensive solution involves improving instruction in the regular classroom, so that inappropriate referrals for special education are avoided. However, the typical Chicago school already has three-fourths of its regular classroom students reading below the national average.[1**]

There are many groups who can play an important role in bringing about this needed change. Below, we have focused on several specific organizations that can make a pivotal contribution to seeing that a comprehensive solution to the misclassification problem is put in place in Chicago.

Action Is Needed by the Chicago Public Schools and the State of Illinois

The Chicago Public Schools bears the most direct responsibility for the creation of the misclassification problem and for the shortcomings of the current reclassification process and must take the steps that are needed to eliminate these shortcomings.

The state of Illinois is another public body that bears a major responsibility for the misclassification problem and its solution. Chicago's huge EMH program has been maintained substantially with state funds. The state is the primary agency legally charged with enforcing both state and federal special education laws intended to protect children against being misclassified.

Later in this section we make a series of specific recommendations for needed short-term and long-term action by both the Chicago Public Schools and the state of Illinois.

Action Is Needed by Parents, Citizens, and Professional Organizations

The key to moving both the Chicago Public Schools and the state of Illinois to make needed changes is vocal, informed, and long-term action on the part of individual parents, parent groups, and citizen groups. It is time for the public to stand up as advocates for the children who have suffered the injustice of misclassification and who are still caught in the web of the school system's misguided policies and practices.

Another group that should take an

important leadership role in helping to solve Chicago's misclassification problem are the major professional associations whose members consist of school psychologists -- the American Psychological Association and the National Association of School Psychologists. The current reclassification project has clearly violated the standards of these organizations concerning the development and use of tests.

Later in this section we make specific recommendations for needed short-term and long-term action by these groups.

What Designs for Change Is Going to Do

Designs for Change, working with others who are concerned about Chicago's misclassification problem, intends to play a catalytic role in pressing for needed short-term and long-term action. In the next few months, DFC will collaborate with a coalition of other concerned organizations to:

- Distribute this report widely to those concerned about misclassification.
- Press the Chicago Public Schools and the state of Illinois to carry out the recommendations that follow.
- Operate a hotline to document parents' and educators' experiences with the current reclassification project and to provide advice.
- Provide fact sheets and hold training sessions for parents whose children are going through the reclassification process.
- Hold training sessions for active parents, parent groups, community groups, social service personnel, and others who wish to act as advocates for parents whose children are being reclassified or to investigate the misclassification problem in their own local schools.

Designs for Change and other groups are also committed to staying with the misclassification issue in the long term until it is clear that basic lasting changes have been made.

Below, we describe the recommendations that will be the focus of this action.

A. Recommendations to the Chicago Board of Education

DFC recommends that in the short term the reclassification project currently underway be suspended. DFC makes this recommendation with great reluctance, since it means that thousands of misclassified students will remain temporarily in EMH classes. However, the potential for further harm is so great that suspending the reclassification project to enable changes to be made in its design and implementation is the only viable approach to protecting misclassified children from further harmful treatment.

Temporary suspension of the reclassification project will allow the schools to obtain advice and make plans that can result in an appropriate short-term and long-term reform process. (This recommendation should in no way be construed as an endorsement of the school system's previous practices, as the earlier sections of this report should have made clear.)

Short-Term Recommendations

A-1. Because of the inadequacy of current retesting procedures and the

lack of appropriate transitional programs, the school system should suspend the current reclassification project until appropriate changes are made in its design and implementation. These changes must be completed in a timely fashion, so that reclassification can resume before the end of the 1982-83 school year.

A-2. The school system should contract with nationally recognized consultants on the EMH misclassification problem (either those they have previously employed or others with similar qualifications) to review the adequacy of what has been done to date and to recommend the ingredients for an adequate reform effort. The consultants should gather information from interested independent groups. They should make specific recommendations about an adequate program for student assessment, placement, reassessment and transition, including such issues as testing procedures, resource allocation, qualifications for key staff positions, and needed staff training and in-class support. One issue to which the consultants should direct their attention is what additional efforts should be undertaken for those students who have already been retested using the Experimental Battery. The consultants' report should be made public.

A-3. The school system should allow psychologists from Designs for Change and other qualified independent parties to examine the tests and testing procedures that have been used in the reclassification and should supply other requested data about the status of the project that will allow the public to monitor the school system's performance.

A-4. Responding to recommendations from the consultants and from interested groups, the school system should then develop tentative plans for a modified reclassification project, specifically justifying any proposed deviations from the consultants' recommendations. The consultants and interested members of the public should have an opportunity to comment on these plans.

A-5. The school system should then implement a new reclassification plan, to begin before the end of the 1982-83 school year. The implementation of the project should include the regular release of data that will allow independent groups to monitor progress.

A-6. Since the adequate implementation of a reclassification project involves numerous parts of the regular education and special education system, the General Superintendent should assume the major direct responsibility for the implementation of this project.

Long-Term Recommendations

A-7. After the major reclassification project is completed, the school system should continue to carry out the key features of the revised student evaluation, placement, reevaluation, and transition plan on a permanent basis.

A-8. Employing the approach to reform embodied in the short-term recommendations (use of outside consultants, public participation in planning, public access to information), the school system should develop and implement reforms that address the following longer-term issues:

a. Improvements in the referral process and related capabilities of regular classroom teachers to deal with learning and behavior problems within the regular classroom.

b. Improvements in the quality of EMH instruction and the diversity of settings in which EMH students are instructed.

A-9. The school system should undertake a permanent program for monitoring the misclassification problem, which includes collecting, analyzing, and making public the following information on an annual basis:

a. The number of referrals for special education assessment by ethnic group made from each school.

b. The numbers of placements in various special education programs (Educationally Handicapped, Specific Learning Disability, etc.) by ethnic group and by type of placement (resource room, self-contained classroom, etc.). These data should be presented on a school-by-school basis both for the "sending schools" from which students are referred for special education assessment and the "receiving schools" that house the special education programs.

A-10. The school system should, with the participation of the public and of outside consultants, develop and carry out a plan of action to address other issues of misclassification and inadequate availability of special education services indicated by the data analysis in this report. These include:

a. The under-representation of Hispanic students in a number of special education programs.

b. The over-representation of black students in classes for the Educationally Handicapped, the separation of these classes from the regular school program, and the quality of these programs.

c. The under-representation of black students in programs for learning disabilities, speech impairments, and physical handicaps.

B. Recommendations to the State Government and the Illinois State Board of Education

The Illinois state government and particularly the Illinois State Board of Education have the obligation to enforce numerous state and federal requirements that have been violated by the past classification practices of the Chicago Board of Education and by the present reclassification project. These include requirements that tests and testing procedures be non-discriminatory, that any tests used be validated for the purpose intended, that parents be encouraged to participate actively in decisions about their children, and that children be educated to the greatest extent possible in regular classroom and school settings.[189]

In addition to enforcing the law, the state government provides substantial monetary support for special education programs, and the way these funds are provided creates both positive and negative incentives in relation to the misclassification problem.[190]

Designs for Change and other organizations cooperating with DFC will ask the Illinois State Board of Education to take both short-term and long-term action on misclassification in Chicago.

Short-Term Recommendations

B-1. ISBE should conduct an investigation of the Chicago Public Schools to identify possible violations of the state and federal special education requirements related to misclassification that ISBE is charged with enforcing. This investigation should focus on the misclassification of children in EMH classes and the adequacy of

reforms initiated by the Chicago Public Schools to address this problem. ISBE should make recommendations and, if necessary, apply sanctions, sufficient to insure that a program is implemented conforming to relevant state and federal requirements.

Long-Term Recommendations

B-2. ISBE should conduct regular monitoring of the special education programs of the Chicago Public Schools sufficient to insure compliance with relevant requirements related to misclassification. These investigations should not only focus on problems related to the EMH program, but also other issues of misclassification and inadequate availability of services indicated by the data analysis in this report. These include:

a. The under-representation of Hispanic children in a number of special education programs.

b. The over-representation of black students in classes for the Educationally Handicapped, the separation of these classes from the regular school program, and the quality of these programs.

c. The under-representation of black students in programs for learning disabilities, speech impairments, and physical handicaps.

B-3. ISBE and other branches of state government should take leadership in identifying possible changes needed in state law and regulations that would create positive incentives for school systems to classify children accurately. Among the changes that should be seriously considered:

a. Illinois is one of the few states without specific requirements concerning the criteria to be used in placing children in EMH classes.[191] ISBE should adopt the criteria for EMH placement recommended in this report, which are the state standards in many other states.

b. State funding should be provided for special education resource teachers who would have the primary responsibility for preventing unnecessary special education referrals by helping regular classroom teachers deal with learning and behavior problems.

c. State funding should be provided to staff transitional programs to return special education students to full-time participation in the regular program.

d. Modifications should be considered in the present set of definitions for handicaps that will both guarantee children access to needed services and minimize the associated stigma and separation from the regular school program.

C. Recommendations to Concerned Parent and Citizen Groups

Parent and citizen groups have played and will continue to play a catalytic role in achieving appropriate changes in policy about misclassification and seeing that they are carried out in practice. Parent and citizen groups can press the Chicago Public Schools directly for needed short-term and long-term changes. They can press other governmental agencies and official bodies to investigate what is happening in Chicago. They can investigate the EMH problem in particular schools and administrative districts. And they can advise individual parents whose children are being assessed or reassessed.

Short-Term Recommendations
Parent and citizen groups should:

C-1. Obtain information and training so that they can aid parents whose children are being reclassified and can investigate misclassification in specific schools and administrative districts.

C-2. Press the Chicago Public Schools to suspend its present reclassification project and redesign it.

C-3. Encourage other governmental agencies and organizations to investigate Chicago's reclassification project if it refuses to suspend the present effort.

C-4. Provide information, training, and advocacy assistance to individual parents whose children are going through the reclassification process.

C-5. Investigate the extent of the misclassification problem and the quality of the school system's reclassification project in particular schools or administrative districts.

Long-Term Recommendations
Parent and citizen groups should:

C-6. Press for needed long-term changes in the practices of the school system that will eliminate the EMH misclassification problem and other inequities in special education.

C-7. Provide information, training, and advocacy assistance to individual parents whose children are involved in special education.

C-8. Press for long-term changes in the quality of special education in particular schools and administrative districts.

D. Recommendations to Parents

Parents have substantial legal rights in influencing decisions about their children's placement and programming in special education. However, as we have noted earlier, these rights are likely to be undercut unless parents learn what their rights are and support each other in exercising these rights in the special education decision-making process.

Short-Term Recommendations
D-1. Parents should obtain information and training so that they can represent their children's interest in the decision making about their child's assessment and placement in EMH.

D-2. Parents should weigh their own child's situation in assessing the advantages and disadvantages of agreeing to allow their child to be reassessed in the current reclassification project, if it is continued. Given the inadequacies of the present process, parents should seriously consider refusing to have their child retested at this time.

D-3. Parents who decide to allow their child to be retested have a right to detailed information about the retesting and the transition program. They should press for a full explanation of the way in which their child will be retested and how decisions will be made about their child. They should press for detailed information about the services that will be provided to their child if he or she is transitioned.

Long-Term Recommendations
D-4. Parents should obtain information and training so that they can represent their children's interest in the special education decision-making process.

D-5. Parents should join with other parents in analyzing the adequacy of special education programs in their local schools and advising other parents when their children are being tested and placed.

E. Recommendations to the American Psychological Association and the National Association of School Psychologists

The American Psychological Association and the National Association of School Psychologists have codes of ethical standards and standards for the development and use of tests that their members are bound to follow. DFC and the other organizations concerned about misclassification will inform the ethics committees of these two organizations of apparent violations of these standards that are taking place in Chicago's reclassification project.

Short-Term Recommendations

E-1. If the Chicago Board of Education suspends the reclassification project and agrees to an appropriate process for modifying the reclassification project, APA and NASP should offer technical assistance to the school system in planning and carrying out needed short-term and long-term changes.

E-2. If the Chicago Board of Education continues the present reclassification project, APA and NASP should conduct investigations of apparent violations of professional standards in Chicago's reclassification project and should seek needed modifications, imposing appropriate sanctions if necessary.

APPENDIX A
Supplementary Tables

Table A-1

Percent and Numbers of Students
from Various Ethnic Groups in Programs for
the Educable Mentally Handicapped (EMH)
in the Nation's Six Largest Cities[1,2]
(1980-81 School Year)

CITY (LISTED IN ORDER OF TOTAL SCHOOL ENROLLMENT)	% BLACK STUDENTS IN EMH BY CITY	% WHITE STUDENTS IN EMH BY CITY	% HISPANIC STUDENTS IN EMH BY CITY	% TOTAL STUDENTS IN EMH BY CITY
New York (enrollment = 943,952)	0.91% n = 3,276	0.41% n = 1,009	0.80% n = 2,286	0.70% n = 6,629
Los Angeles (enrollment = 538,038)	1.07% n = 1,339	0.39% n = 503	0.35% n = 858	0.51% n = 2,765
Chicago (enrollment = 458,523)	3.83% n = 10,658	1.74% n = 1,493	0.83% n = 701	2.85% n = 13,077
Philadelphia (enrollment = 224,152)	2.39% n = 3,351	1.38% n = 887	1.95% n = 312	2.03% n = 4,559
Detroit (enrollment = 213,077)	1.75% n = 3,200	1.66% n = 430	0.61% n = 22	1.72% n = 3,659
Houston (enrollment = 194,060)	1.21% n = 1,058	0.57% n = 280	0.66% n = 357	0.88% n = 1,707

Source: U.S. Department of Education, Office for Civil Rights, Survey of Elementary and Secondary School Districts, and Schools in Selected School Districts: School Year 1980-1981.

Table A-2

Enrollment in Chicago's EMH Program
Compared with Total School System Enrollment[183]
(1970 through 1981)

SCHOOL YEAR	TOTAL SCHOOL SYSTEM ENROLLMENT	% CHANGE FROM 1970-71	TOTAL EMH ENROLLMENT	% CHANGE FROM 1970-71
1970-71	577,679	-------	12,386	-------
1971-72	574,495	- 0.55%	Not Avail.	Not Avail.
1972-73	558,825	- 3.26%	Not Avail.	Not Avail.
1973-74	544,971	- 5.66%	13,174	+ 6.36%
1974-75	536,657	- 7.10%	13,259	+ 7.05%
1975-76	526,716	- 8.82%	12,909	+ 4.22%
1976-77	524,221	- 9.25%	12,952	+ 4.57%
1977-78	512,052	-11.36%	12,865	+ 3.87%
1978-79	494,988	-14.31%	13,225	+ 6.77%
1979-80	477,339	-17.37%	13,303	+ 7.40%
1980-81	458,523	-20.63%	13,077	+ 5.58%

Source: See Note 44.

Table A-3

Rates of Participation in
Various Special Education Programs
by Ethnic Group in Chicago[1]
(1979-80 and 1980-81 School Years)

SPECIAL EDUCATION PROGRAM	1979-80 SCHOOL YEAR BLACK	WHITE	HISPANIC	TOTAL WHITE, BLACK, AND HISPANIC	1980-81 SCHOOL YEAR BLACK	WHITE	HISPANIC	TOTAL WHITE, BLACK, AND HISPANIC
Educable Mentally Handicapped	3.69%(+) n = 10,692	1.44% n = 1,373	1.24% n = 1,019	2.80% n = 13,084	3.83%(+) n = 10,658	1.74% n = 1,493	0.83%(-) n = 701	2.87% n = 12,852
Trainable Mentally Handicapped	0.34% n = 998	0.34% n = 329	0.29% n = 238	0.33% n = 1,565	0.33% n = 922	0.38% n = 329	0.24%(-) n = 205	0.32% n = 1,456
Specific Learning Disability	2.25%(-) n = 6,535	3.47% n = 3,317	1.94%(-) n = 1,587	2.45% n = 11,439	2.41%(-) n = 6,704	4.22% n = 3,613	1.60%(-) n = 1,347	2.60% n = 11,664
Emotional Handicap	0.77% n = 2,226	0.88% n = 840	0.39%(-) n = 320	0.72% n = 3,386	0.72% n = 2,004	0.96% n = 822	0.32%(-) n = 266	0.69% n = 3,092
Educational Handicap	0.37%(+) n = 1,066	0.07% n = 63	0.06% n = 53	0.25% n = 8,182	0.25%(+) n = 694	0.02% n = 18	0.02% n = 21	0.16% n = 733
Speech Impaired	1.34%(-) n = 3,880	2.33% n = 2,223	1.32%(-) n = 1,081	1.54% n = 7,184	1.52%(-) n = 4,244	2.71% n = 2,318	1.16%(-) n = 924	1.67% n = 7,486
Physical Handicap	0.68% n = 1,981	0.75% n = 720	0.56% n = 463	0.68% n = 3,164	0.62%(-) n = 1,719	0.89% n = 755	0.62%(-) n = 520	0.67% n = 2,994
Total	9.44% n = 27,378	9.28% n = 8,865	5.81%(-) n = 4,761	8.77% n = 41,004	9.67% n = 26,945	10.91% n = 9,348	4.73%(-) n = 3,984	8.98% n = 40,277

Note: In each case where the rate of participation in a particular program is substantially greater for black or for Hispanic students, this rate is marked with a "+".
In each case where the rate of participation in a particular program is substantially less for black or for Hispanic students, this rate is marked with a "-". See Note 51.

Source: See Note 43.

Table A-4

Four Special Education Programs in Chicago
in Which Black Students Were Over- or Under-Represented.
Degree of Separation from the Regular School Program.[195]
(1979-80 School Year)

	LOW (regular classroom or part-time resource room)	HIGH (separate special education classroom)	VERY HIGH (separate special school or other facility)	TOTAL
Educable Mentally Handicapped	10.6% n = 1,380	85.1% n = 11,140	4.3% n = 565	100% n = 13,085
Educational Handicap	4.1% n = 48	19.7% n = 234	76.3% n = 902	100% n = 1,184
Learning Disability	85.3% n = 9,217	14.0% n = 1,517	0.6% n = 68	100% n = 10,802
Speech Impaired	97.4% n = 6,983	2.2% n = 158	0.4% n = 29	100% n = 7,170

Source: Harold Dent, Robert J. Griffore, and Jane Mercer, "Special Education and Testing," in Consultants Research Reports on Various Aspects of the Educational Components, submitted to Judge Milton I. Shadur in United States of America vs. Board of Education of the City of Chicago, No. 80 C 5124 (N.D. Ill., filed February 1982), pp. III-10, III-17. See Note 59.

Table A-5

Percentages and Numbers of Chicago's Black and White Students in Elementary and High School EMH Classes for the School System's Twenty Administrative Districts[1**]
(1980-81 School Year)

DISTRICT	% AND NUMBER* OF ELEMENTARY STUDENTS IN ELEMENTARY EMH CLASSES		% AND NUMBER* OF HIGH SCHOOL STUDENTS IN HIGH SCHOOL EMH CLASSES		% AND NUMBER* OF ALL BLACK AND WHITE STUDENTS IN CHICAGO'S EMH CLASSES		DISTRICT RANK BY % OF LOW-INCOME STUDENTS IN THE DISTRICT (district ranked first has the highest poverty rate)
	BLACK	WHITE	BLACK	WHITE	BLACK	WHITE	
1	2.77%	0.89%	0.89%	0.83%	2.17%	0.87%	20th
	32/1,157	95/10,725	4/447	31/3,721	36/1,661	126/14,498	
2	1.67%	1.30%	2.17%	1.35%	1.79%	1.32%	18th
	58/3,493	96/7,378	25/1,149	47/3,467	83/4,642	143/10,845	
3	3.13%	1.18%	4.27%	0.73%	3.39%	0.98%	12th
	213/6,806	51/4,307	88/2,063	26/3,559	301/8,869	77/7,866	
4	3.26%	2.55%	7.13%	2.53%	4.01%	2.54%	19th
	182/5,590	147/5,764	96/1,347	139/5,490	278/6,937	286/11,254	
5	4.65%	2.90%	7.95%	0.25%	5.42%	2.68%	10th
	255/5,481	128/4,410	133/1,674	1/403	388/7,155	129/4,813	
6	5.34%	3.20%	2.64%	2.90%	4.45%	3.14%	1st
	108/2,021	62/1,936	23/872	11/379	131/2,946	73/2,325	
7	4.49%	-**	2.83%	-**	4.10%	-**	4th
	758/16,868		149/5,257		907/22,125		
8	5.54%	2.45%	5.48%	3.16%	5.42%	2.72%	6th
	241/4,352	46/1,880	232/4,237	46/1,456	473/8,719	92/3,385	
9	3.25%	0.65%	7.92%	0.58%	4.81%	0.59%	2nd
	453/13,947	2/310	567/7,155	7/1,200	1020/21,201	9/1,538	
10	3.74%	4.82%	5.69%	-**	3.87%	1.17%	5th
	423/11,317	20/415	92/1,616		515/13,320	23/1,973	

DISTRICT	% AND NUMBER* OF ELEMENTARY STUDENTS IN ELEMENTARY EMH CLASSES		% AND NUMBER* OF HIGH SCHOOL STUDENTS IN HIGH SCHOOL EMH CLASSES		% AND NUMBER* OF ALL BLACK AND WHITE STUDENTS IN CHICAGO'S EMH CLASSES		DISTRICT RANK BY % OF LOW-INCOME STUDENTS IN THE DISTRICT (district ranked first has the highest poverty rate)
	BLACK	WHITE	BLACK	WHITE	BLACK	WHITE	
11	6.56%	3.65%	3.23%	0.98%	5.28%	3.25%	7th
	681/10,380	63/1,725	209/6,474	3/305	890/16,854	66/2,030	
12	3.77%	2.34%	7.48%	1.37%	4.57%	1.91%	15th
	267/7,085	111/4,737	146/1,951	52/3,807	413/9,036	163/8,544	
13	3.11%	1.80%	7.71%	-**	4.05%	3.40%	3rd
	500/16,086	19/1,058	317/4,109		817/20,195	41/1,207	
14	3.38%	1.85%	4.59%	1.01%	3.82%	2.56%	8th
	510/15,083	7/378	290/6,313	4/398	827/21,665	20/781	
15	2.67%	1.32%	2.27%	1.07%	2.55%	1.22%	16th
	279/10,451	56/4,232	96/4,230	31/2,887	375/14,681	87/7,119	
16	3.25%	-**	5.42%	-**	4.04%	-**	9th
	479/14,761		458/8,448		937/23,209		
17	2.37%	-**	4.43%	-**	2.71%	-**	13th
	410/17,333		154/3,474		564/20,807		
18	3.24%	0.48%	3.51%	2.07%	3.30%	0.94%	17th
	493/15,214	9/1,886	137/3,898	16/773	630/19,112	25/2,659	
19	1.59%	0.68%	4.18%	2.98%	2.88%	1.22%	14th
	127/8,012	9/1,314	332/7,939	12/403	459/15,951	21/1,717	
20	2.58%	1.46%	4.28%	1.55%	3.18%	2.94%	11th
	324/12,542	19/1,302	290/6,782	23/1,488	614/19,324	82/2,790	

* The first number listed under the percentage for each district is the number of EMH students for the indicated category (e.g., the number of black elementary EMH students in District 1). The second number listed is the total district enrollment for the indicated category (e.g., the total number of black elementary students enrolled in District 1).

** In these instances, the administrative district's total enrollment of a particular group of children (for example, white high school students) is less than 150, and a percentage rate has not been calculated.

Source: U.S. Department of Education, Office for Civil Rights, Survey of Elementary and Secondary School Districts, and Schools in Selected School Districts, and Schools in Selected School Districts: School Year 1980-81; Chicago Public Schools, Context for Achievement: Test Scores and Selected School Characteristics, (Chicago: Author, 1982). See Note 63.

APPENDIX B
Interpreting School-by-School Data about EMH Misclassification

As indicated in Section 2, school-by-school data concerning EMH classification can be extremely helpful to those seeking to identify misclassification problems and deficiencies in EMH programs. However, school-by-school data are also complicated to interpret, and the available school-by-school data about Chicago has some significant limitations. Nevertheless, this appendix presents school-by-school data concerning black and white student enrollment in EMH for the 1980-81 school year, along with some guidelines for understanding it. This information is intended for the parent group, citizen group, journalist, or educator who wants to understand the misclassification problem in particular schools and administrative districts.

As noted in Section 2, there are two major types of problems associated with the EMH program that arise at the school level. First, some individual schools may refer excessive numbers of children for special education evaluation, and as a result, a high percentage of the black or white children from a particular school may end up in EMH classes. This is a problem that relates to the "sending school," the school where a child participated in the regular school program before being placed in EMH.

Second, because many EMH students are bused away from their neighborhoods to attend EMH programs in other schools, there are important problems related to the "receiving schools" for EMH children, the schools that actually house EMH programs. Frequently, the EMH classes for several neighborhood schools are consolidated in one of these schools. Or EMH programs may be housed in a school that primarily serves handicapped children. Or EMH students may be bused to a school to enhance the racial balance of the school, even though the EMH students have little contact with the regular program in the receiving school (for example, black EMH students bused to a predominantly white school).

Under federal and state requirements, handicapped children have a right to attend a special education program in their neighborhood school, unless there is some compelling reason why assigning children to another school is necessary.[197] And handicapped children have a right to special education services that maximize their contact with the regular school program.[198] These requirements are undermined when EMH children are transferred for administrative convenience or placed in isolated special education schools without an educational justification.

The tables presented at the end of this appendix can help you investigate these problems in particular schools or administrative districts. These four tables present school-by-school data about the rate of participation in EMH for black students in elementary school, black students in high school, white students in elementary school, and white students in high school (1980-81 school year). For each of these groups of students, a particular table lists those schools in rank order that have more than 1.25% of a particular group of students enrolled in EMH.

There are several reasons why a particular school might have a high rate of EMH enrollment. The position that someone analyzing particular schools should take is that any time there is a high rate of EMH enrollment for black or white students in a particular school, the burden should be on the school system to prove that this high rate does not reflect (1) an excessively high rate of referral for special education evaluation and placement in EMH classes or (2) the unjustifiable separation of EMH students from the regular education program.

Excessive Referral and EMH Placement

The ideal data needed to investigate the problem of excessive referral and placement would be:

- The number of referrals for special education assessment by ethnic group made from each "sending" school during a school year.
- The numbers of placements in various special education programs (Educationally Handicapped, Specific Learning Disability, etc.) by ethnic group and by type of placement (resource room, self-contained classroom, etc.) for each "sending" school during a school year.

As noted in Section 6, we are requesting that the school system make these data available in the future.

However, the available data about the actual enrollment in EMH in various schools, presented at the end of this appendix, can be used as a good starting point for investigating the problem of excessive referrals and placements. To do so, investigate the following questions:

- Identify a school you are interested in that has a high EMH enrollment.
- Ask school officials to explain to you what sending schools transfer children to these particular receiving schools for EMH programs.
- If a school is only serving EMH students from its regular attendance area, you can use the percentages in this appendix to judge whether the school has a high placement rate in EMH.

- If a school houses EMH classes that serve students bused from several other schools, you should try to find out how many EMH students come from each of these schools, so you can calculate the EMH placement rate for each of these schools. If this information is not available, you can add up the total enrollments by ethnic group for all the sending schools and calculate an overall EMH rate for the group of sending schools that feeds children into EMH classes in a particular receiving school.

Unjustifiable Separation of EMH Students from the Regular School Program

In most cases, there is no reason why EMH students can't be served in there own neighborhood school and can't spend part or most of their time participating in the regular school program. This possibility is undermined when children are bused out of their neighborhood to separate EMH programs in schools with high concentrations of EMH or other special classes. One of the few legitimate justifications for this practice is that the receiving school provides highly specialized staff, equipment, or programs that actually benefit EMH students and that can't be provided in the neighborhood school.[***] Focusing then on a school with a high rate of EMH enrollment for black or white students, you should ask school officials questions like the following:

- What are the sending schools for this particular receiving school? Why can't these sending schools simply have their own EMH programs?

- Are children being bused to a particular school for EMH programs to improve the racial balance of the school? If so, to what extent are EMH students really being integrated into the regular school program in the receiving school?

- Are there any highly specialized staff (e.g., physical therapists), special equipment, or programs in this school that actually benefit EMH students and that can't be made available in a neighborhood school?

- Is this school primarily a school for handicapped children? If so, has the EMH class been placed in this school for some educational reason or primarily for administrative convenience?

Problems With the School-Level Data

A final issue that you should consider in using these data is that they are data for the 1980-81 school year and that there are undoubtedly some mistakes in them. But remember, it is the school system's own staff who compiled these data, and the school system also has similar data for the most recent school year which have not been released. If school officials tell you that the data are inaccurate, remind them that these are their own data and ask them to correct any mistakes. If school officials tell you these data are outmoded, ask them to produce more recent data.

To understand the four tables, examine Table B-1. Table B-1 lists all elementary schools with a black student enrollment of more than 50 students and more than 1.25% of these black students assigned to EMH classes. (Similarly, Table B-3 lists all elementary schools with a white student enrollment of more than 50 students and more than 1.25% of these white students assigned to EMH classes.)

Schools in Table B-1 are listed in terms of the percentage of black students assigned to EMH, with the school having the highest percentage of black EMH enrollment listed first. Schools in Table B-1 marked with an asterisk have a total black student enrollment of 51 to 150 black students. The reader should note that in schools indicated by an asterisk, small changes in the number of students in EMH classes can cause significant shifts up or down in the school's place on the list.

Table B-1

Elementary Schools (K-8) with More Than
Fifty Black Students and More Than
1.25% of These Students in EMH Classes
(1980-81 School Year)

	SCHOOL	DISTRICT NUMBER	% BLACK STUDENTS IN EMH	NUMBER BLACK STUDENTS IN EMH	SCHOOL'S BLACK STUDENT ENROLL'T
*	HERZL CHILD PARENT CENTER	10	28.78	40	139
*	JOHNSON CHILD PARENT CENT	8	24.82	35	141
	JAMES WARD ELEM	11	20.12	33	164
*	IRVING ELEM	9	19.57	27	138
*	PLAMONDON ELEM	8	19.30	11	57
*	TALCOTT ELEM	6	18.87	10	53
	DOUGLAS ELEM	11	14.81	96	648
*	SMYSER ELEM	1	14.29	15	105
*	LYON ELEM	4	14.14	14	99
*	SCHUBERT ELEM	4	13.33	16	120
*	REINBERG ELEM	4	12.86	9	70
	ALCOTT ELEM	3	12.72	22	173
	CLARK MIDDLE	7	12.34	103	835
	DONOGHUE ELEM	11	11.15	68	610
	SCHILLER ELEM	3	10.89	61	560
*	TULEY MIDDLE SCHOOL	6	10.64	10	94
	MORTON UPPER CYCLE	5	10.61	61	575
*	TRUMBULL ELEM	2	9.68	6	62
	PENN ELEM	10	9.50	81	853
	LAWLESS UPPER CYCLE	16	9.35	50	535
	SHEPARD ELEM	8	9.32	34	365
*	HALE ELEM	12	9.26	5	54
*	STOWE ELEM	5	9.09	5	55
*	REILLY ELEM	5	8.97	7	78
	DOUGLASS MIDDLE	7	8.87	96	1082
	FRAZIER ELEM	10	8.82	41	465
*	CLAY ELEM	20	8.65	9	104
	PICCOLO MIDDLE	5	8.58	23	268
	OAKLAND ELEM	11	8.55	26	304
	JUDD ELEM	14	8.39	25	298
	BURNSIDE ELEM	19	8.30	59	711
	OAKENWALD S INTERMEDIATE	14	8.28	48	580
	JOHNSON ELEM	8	8.24	35	425
*	MURPHY ELEM	1	7.94	5	63
*	DEVER ELEM	4	7.81	5	64
	WOODSON NORTH ELM	14	7.77	44	566
*	HURLEY ELEM	15	7.69	8	104
	HAINES ELEM	11	7.16	34	475
	DOOLITTLE INTERMED & UPPE	11	7.04	46	653
	LOW UPPER CYCLE	16	7.04	33	469
	GLADSTONE ELEM	9	6.77	42	620

	SCHOOL	DISTRICT NUMBER	% BLACK STUDENTS IN EMH	NUMBER BLACK STUDENTS IN EMH	SCHOOL'S BLACK STUDENT ENROLL'T
	ELLINGTON ELEM	7	6.74	39	579
	MELODY ELEM	7	6.59	44	668
*	MOOS ELEM	6	6.56	4	61
	DYETT MIDDLE	13	6.51	49	753
	NEWBERRY ELEM	3	6.50	13	200
	REED ELEM	16	6.38	51	799
	NASH ELEM	7	6.34	90	1419
	CHALMERS ELEM	8	6.31	45	713
	WHISTLER ELEM	18	6.26	35	559
	HEARST ELEM	12	6.24	67	1073
	ABBOTT ELEMENTARY	11	6.20	34	548
	LOWELL ELEM	5	6.09	17	279
	GOUDY ELEM	2	6.07	13	214
*	KILMER ELEM	2	5.88	6	102
*	MOUNT GREENWOOD ELEM	18	5.88	6	102
	BEETHOVEN ELEM	13	5.88	68	1157
	EMMET ELEM	7	5.86	48	819
	HIGGINS ELEM	18	5.81	29	499
	GRESHAM ELEM	18	5.67	46	811
	JENSEN ELEM	9	5.66	32	565
	SUMNER ELEM	10	5.65	41	726
*	DARWIN ELEM	5	5.62	5	89
	PARKER ELEM	16	5.60	22	393
	VON HUMBOLDT ELEM	6	5.57	18	323
	RAYMOND ELEM	11	5.55	56	1009
	EINSTEIN ELEM	11	5.53	42	760
*	PULASKI ELEM	5	5.48	4	73
	GUGGENHEIM ELEM	16	5.39	36	668
*	STEVENSON ELEM	15	5.36	6	112
	CATHER ELEM	9	5.35	33	617
	FISKE ELEM	14	5.19	32	617
	CARVER PRIMARY	20	5.16	28	543
	GOLDBLATT ELEM	7	5.10	44	863
	WILLIAMS ELEM	11	5.04	59	1170
	SMYTH ELEM	9	5.02	42	837
	MCCORKLE ELEM	13	4.97	35	704
	BARNARD ELEM	18	4.87	19	390
	PADEREWSKI ELEM	10	4.87	29	596
	RASTER ELEM	15	4.81	29	603
	FARADAY ELEM	9	4.79	60	1252
	HESS UPPER CYCLE	10	4.79	17	355
	LAFAYETTE ELEM	6	4.78	15	314
	FULLER ELEM	14	4.65	31	666
	POPE ELEM	8	4.63	22	475
*	MAYER ELEM	3	4.62	6	130
	CARVER MIDDLE	20	4.61	30	651
	HENDERSON ELEM	12	4.59	49	1068
	SHERMAN ELEM	12	4.57	41	897
	PULLMAN ELEM	20	4.55	24	527
	HERZI ELEM	10	4.55	40	880
	KEY ELEM	7	4.53	40	883

	SCHOOL	DISTRICT NUMBER	% BLACK STUDENTS IN EMH	NUMBER BLACK STUDENTS IN EMH	SCHOOL'S BLACK STUDENT ENROLL'T
	RYDER ELEM	18	4.51	26	576
	CARNEGIE ELEM	14	4.51	19	421
	BASS ELEM	16	4.50	35	777
	GREGORY ELEM	10	4.47	29	649
	VAN VLISSINGEN ELEM	20	4.35	46	1058
	COLMAN ELEM	13	4.34	51	1174
	MAYO ELEM	11	4.33	27	624
	ROSS ELEM	13	4.31	39	904
	HERBERT ELEM	9	4.31	19	441
	SABIN ELEM	6	4.29	7	163
	WEST PULLMAN ELEM	18	4.21	38	902
	J ROBINSON BRANCH OF OAKE	14	4.18	13	311
	BIRNEY ELEM	9	4.17	25	599
	FARREN ELEM	13	4.13	42	1016
	FERMI ELEM	14	4.09	30	734
	RYERSON ELEM	5	4.08	37	906
	ESMOND ELEM	18	4.08	33	809
	KOZMINSKI ELEM	14	4.07	22	540
	YATES ELEM	6	4.07	7	172
	YALE ELEM	16	4.03	30	745
	EARLE ELEM	15	4.02	41	1020
	DULLES ELEM	14	3.99	36	902
	MORGAN ELEM	18	3.97	25	630
*	LOCKE ELEM	4	3.96	4	101
	SHAKESPEARE ELEM	14	3.96	18	455
	BONTEMPS ELEM	12	3.95	30	760
	DUMAS ELEM	14	3.94	28	711
	SHOOP ELEM	18	3.92	29	739
	SEXTON ELEM	14	3.88	25	644
	BRYANT ELEM	10	3.85	26	675
	WILLARD ELEM	13	3.85	15	390
	PRICE ELEM	14	3.84	30	781
	HOWE ELEM	4	3.83	52	1356
	NEWTON ELEM	20	3.82	17	445
	BEIDLER ELEM	7	3.80	28	737
	JENNER ELEM	3	3.78	58	1534
	BRENAN ELEM	18	3.77	47	1246
	SUDER ELEM	9	3.77	28	743
	BETHUNE ELEM	8	3.76	25	665
*	HAYT ELEM	2	3.70	2	54
*	BRIGHT ELEM	19	3.70	3	81
	GREEN ELEM	18	3.68	17	462
	TILTON ELEM	7	3.66	37	1011
	MADISON ELEM	17	3.64	29	796
	WESTCOTT ELEM	16	3.63	27	744
	DENEEN ELEM	17	3.57	22	617
	DEWEY ELEM	13	3.55	20	563
	STAGG ELEM	16	3.54	30	847
	CORNELL ELEM	17	3.53	19	538
	BROWNELL ELEM	17	3.53	14	397
	KING ELEM	9	3.51	12	342
	PARK MANOR ELEM	17	3.51	17	485
	MOUNT VERNON ELEM	18	3.47	22	634

	SCHOOL	DISTRICT NUMBER	% BLACK STUDENTS IN EMH	NUMBER BLACK STUDENTS IN EMH	SCHOOL'S BLACK STUDENT ENROLL'T
	BYRD ELEM	3	3.46	23	664
*	SCHNEIDER ELEM	5	3.42	4	117
	JOPLIN ELEM	15	3.37	30	891
	HARTIGAN ELEM	13	3.34	29	869
	O TOOLE ELEM	15	3.32	41	1234
	JFFERSON ELEM	9	3.31	12	362
	HOLMES ELEM	12	3.30	34	1029
	ERICSON ELEM	7	3.28	21	641
	MAY ELEM	7	3.26	50	1535
	TERRELL ELEM	13	3.25	31	955
	HENSON ELEM	10	3.20	14	438
	CAMERON ELEM	5	3.19	26	814
	WARD LAURA S ELEM	5	3.15	20	634
	HAY ELEM	4	3.14	37	1177
	FORT DEARBORN ELEM	18	3.13	33	1054
	RUGGLES ELEM	17	3.13	20	639
	KOHN ELEM	20	3.11	36	1156
	REVERE ELEM	17	3.10	19	612
	MANIERRE ELEM	3	3.10	22	710
	COPERNICUS ELEM	12	3.08	15	487
	TANNER ELEM	17	3.03	15	495
	HOWLAND ELEM	8	3.00	19	634
	DODGE ELEM	9	2.99	22	735
*	ANDERSEN ELEM	6	2.97	3	101
	CARTER ELEM	13	2.96	28	945
	BRADWELL ELEM	17	2.96	40	1352
	MCCOSH ELEM	14	2.95	37	1254
	HEFFERAN ELEM	7	2.95	21	712
	DEPRIEST ELEM	7	2.94	23	781
	WRIGHT ELEM	5	2.94	11	374
	CALHOUN ELEM NORTH	9	2.94	23	782
	MORSE ELEM	5	2.93	21	716
	CULLEN ELEM	20	2.92	14	479
	DETT ELEM	9	2.92	25	856
	YOUNG ELEM	4	2.92	12	411
	BURKE ELEM	13	2.87	15	522
	FOSTER PARK ELEM	15	2.87	26	905
	PICCOLO ELEM	5	2.87	7	244
	RAY ELEM	14	2.87	9	314
	NANSEN ELEM	18	2.86	16	559
	ALDRIDGE ELEM	20	2.83	14	494
	HUGHES ELEM	10	2.82	14	497
	OGLESBY ELEM	16	2.80	23	821
	CUFFE ELEM	16	2.80	13	465
	LANGSTON HUGHES ELEM	20	2.79	11	394
	DRAKE ELEM	11	2.76	16	580
	COLES ELEM	17	2.73	26	953
	DELANO ELEM	7	2.71	23	849
*	GREELEY ELEM	2	2.70	2	74
	SCOTT ELEM	14	2.70	13	481
	FERNWOOD ELEM	18	2.68	14	523

	SCHOOL	DISTRICT NUMBER	% BLACK STUDENTS IN EMH	NUMBER BLACK STUDENTS IN EMH	SCHOOL'S BLACK STUDENT ENROLL'T
	PERRY ELEM	19	2.67	17	636
	SCANLAN ELEM	20	2.67	34	1274
	THORP JAMES N ELEM	19	2.67	16	600
	STEWART ELEM	2	2.66	5	188
	LUELLA ELEM	19	2.62	19	725
	HENDRICKS ELEM	13	2.61	14	537
	ALTGELD ELEM	15	2.60	30	1152
	OAKENWALD NORTH PRIMA	14	2.59	12	463
	GOMPERS ELEM	20	2.57	15	584
	LEWIS ELEM	4	2.56	13	507
	BEALE ELEM	13	2.55	26	1020
	SBARBARO ELEM	17	2.53	19	752
	WHITE BRANCH OF WEST LL	18	2.52	10	397
	CORKERY ELEM	10	2.51	10	399
	MARCONI ELEM	7	2.49	19	764
	BROWN ELEM	9	2.47	18	730
	LIBBY ELEM	12	2.42	16	660
	DIXON ELEM	17	2.39	18	754
	AVALON PARK ELEM	17	2.36	19	804
	MASON INTER	10	2.35	10	425
	BUNCHE ELEM	15	2.35	21	893
	BRYN MAWR ELEM	17	2.34	42	1796
	WENTWORTH ELEM	16	2.33	25	1074
	DUBOIS ELEM	20	2.31	18	780
	WOODSON SOUTH ELEM	14	2.31	16	694
	BANNEKER ELEM	16	2.28	14	614
	BYFORD ELEM	4	2.27	17	748
	OVERTON ELEM	13	2.26	19	840
	GERSHWIN ELEM	16	2.26	18	796
	BARTON ELEM	15	2.22	27	1215
	EVERS ELEM	18	2.21	10	452
	SPENCER ELEM	7	2.21	27	1221
	SHERWOOD	13	2.18	10	458
	PARKMAN ELEM	13	2.17	9	414
	MANN ELEM	17	2.12	25	1181
	RIIS ELEM	9	2.12	12	567
	COOK ELEM	16	2.09	25	1194
	MOLLISON ELEM	14	2.08	12	578
	GARVEY ELEM	18	2.05	14	683
	LATHROP ELEM	8	1.97	14	710
	LAWSON ELEM	10	1.91	12	628
	BRYN MAWR BR	17	1.89	7	371
	CALDWELL ELEM	17	1.86	13	698
	CARPENTER ELEM	6	1.85	3	162
	HOYNE ELEM	19	1.84	4	217
	JACKSON MAHALIA ELEM	18	1.82	12	659
	KERSHAW ELEM	16	1.81	13	718
	STOCKTON ELEM	2	1.79	4	223
	MCKINLEY E V G C	9	1.79	3	168
	HINTON ELEM	16	1.76	14	795
*	FULTON ELEM	12	1.75	2	114
	PIRIE ELEM	17	1.71	9	526
	HARVARD ELEM	16	1.64	11	670

	SCHOOL	DISTRICT NUMBER	% BLACK STUDENTS IN EMH	NUMBER BLACK STUDENTS IN EMH	SCHOOL'S BLACK STUDENT ENROLL'T
*	DAWES ELEM	15	1.64	1	61
	DVORAK ELEM	10	1.57	12	765
	BRENNEMANN ELEM	2	1.54	4	259
	KIPLING ELEM	18	1.53	7	458
	DUNNE ELEM	20	1.52	10	659
	PARKSIDE ELEM	17	1.51	9	597
	SULLIVAN ELEM	17	1.47	4	273
	CURTIS ELEM	20	1.44	15	1042
	DOOLITTLE PRIMARY	11	1.42	14	984
	BOND ELEM	16	1.40	9	642
	O KEEFFE ELEM	17	1.38	16	1162
	ATTUCKS ELEM	11	1.36	13	958
	GRANT ELEM	9	1.35	18	1329
	WADSWORTH ELEM	14	1.30	7	537

Table B-2

High Schools (9-12) with More Than
Fifty Black Students and More Than
1.25% of These Students in EMH Classes
(1980-81 School Year)

	SCHOOL	DISTRICT NUMBER	% BLACK STUDENTS IN EMH	NUMBER BLACK STUDENTS IN EMH	SCHOOL'S BLACK STUDENT ENROLL'T
*	WILSON OCCUPATIONAL HIGH	4	93.06	67	72
	MCLAREN OCCUPATIONAL HIGH	9	80.48	235	292
	BOWEN LAS CASAS	19	12.33	202	1638
	KENNEDY HIGH	12	10.11	47	465
	GAGE PARK HIGH SCHOOL	12	9.34	68	728
	MANLEY HIGH	8	9.11	138	1514
	DUSABLE HIGH	13	8.64	214	2476
	NEAR NORTH CAREER MAGNET	3	8.44	53	628
	MARSHALL HIGH	9	8.43	181	2148
	ORR HIGH SCHOOL	5	8.07	133	1649
	PHILLIPS HIGH SCHOOL	11	7.74	205	2648
	ENGLEWOOD HIGH	16	7.45	143	1919
*	HUBBARD HIGH	15	7.25	10	138
	CALUMET HIGH	16	7.15	156	2181
	KING HIGH SCHOOL	14	7.15	133	1861
	MORGAN PARK HIGH	18	6.79	84	1238
	TILDEN HIGH SCHOOL	13	6.31	103	1633
	CRANE HIGH	9	6.25	143	2288
	ROBESON HIGH SCHOOL	16	6.09	139	2282
	HARLAN	19	6.03	130	2156
	HIRSCH HIGH	17	5.86	76	1297
	AUSTIN HIGH	7	5.85	149	2546
	WELLS HIGH SCHOOL	6	5.74	22	383
	FARRAGUT HIGH	10	5.69	92	1616
*	FOREMAN HIGH SCHOOL	4	5.60	7	125
	HARPER HIGH	15	5.12	85	1659
	FENGER HIGH	20	4.71	112	2376
	HYDE PARK CAREER ACADEMY	14	4.55	118	2592
	CARVER AREA HIGH	20	4.48	89	1986
	COLLINS HIGH	8	4.29	78	1820
	CURIE HIGH	12	4.09	31	758
	LINCOLN PARK HIGH	3	3.97	31	781
	SCHURZ HIGH SCHOOL	4	3.86	16	414
	CORLISS HIGH	20	3.71	88	2371
	HARRISON HIGH	8	3.60	15	417
	SOUTH SHORE HIGH SCHOOL	17	3.58	78	2177
*	LAKE VIEW HGIH SCHOOL	3	2.96	4	135
	SULLIVAN HIGH SCHOOL	2	2.94	12	408
	SENN HIGH SCHOOL	2	2.40	11	458
	KENWOOD ACADEMY	14	2.39	38	1592
	ROOSEVELT HIGH SCHOOL	1	2.31	4	173
*	AMUNDSEN HIGH SCHOOL	2	2.06	2	97
	JULIAN HIGH SCHOOL	18	1.99	53	2660
	STEINMETZ HIGH SCHOOL	4	1.55	6	387

Table B-3

Elementary Schools (K-8) with More Than
Fifty White Students and More Than
1.25% of These Students in EMH Classes
(1980-81 School Year)

	SCHOOL	DISTRICT NUMBER	% WHITE STUDENTS IN EMH	NUMBER WHITE STUDENTS IN EMH	SCHOOL'S WHITE STUDENT ENROLL'T
*	LOWELL ELEM	5	24.62	16	65
	SCHUBERT ELEM	4	17.55	76	433
	REINBERG ELEM	4	12.08	29	240
	ONAHAN ELEM	1	11.64	34	292
*	MORRIS ELEM	3	10.89	11	101
*	CRERAR ELEM	15	9.93	14	141
*	GOUDY ELEM	2	9.48	11	116
	PECK ELEMENTARY	12	9.07	35	386
*	STEWART ELEM	2	9.02	11	122
	TALCOTT ELEM	6	8.78	18	205
*	WHITTIER ELEM	8	8.06	5	62
	JAHN ELEM	5	7.96	23	289
*	PICCOLO MIDDLE	5	7.75	11	142
*	PICKARD ELEM	8	7.45	7	94
	REILLY ELEM	5	7.27	25	344
	STOCKTON ELEM	2	7.21	23	319
	STOWE ELEM	5	6.99	13	186
	HOLDEN ELEM	11	6.80	17	250
*	GREELEY ELEM	2	6.36	7	110
	SAWYER ELEM	12	6.21	22	354
*	SOLOMON ELEM	1	6.16	9	146
	GREENE ELEM	11	5.96	9	151
*	GARY ELEM	10	5.94	6	101
*	MOOS ELEM	6	5.77	6	104
	CLEVELAND ELEM	1	5.49	19	346
*	BRIGHT ELEM	19	5.33	4	75
	BURROUGHS ELEM	8	5.15	10	194
*	BRENNEMANN ELEM	2	5.13	4	78
*	AGASSIZ ELEM	3	5.13	6	117
	FUNSTON ELEM	5	5.13	8	156
	ALCOTT ELEM	3	4.85	8	165
	HEALY ELEM	11	4.74	20	422
*	PICCOLO ELEM	5	4.62	6	130
	ROGERS ELEM	2	4.23	14	331
*	COLUMBUS ELEM	6	4.17	3	72

	SCHOOL	DISTRICT NUMBER	% WHITE STUDENTS IN EMH	NUMBER WHITE STUDENTS IN EMH	SCHOOL'S WHITE STUDENT ENROLL'T
	PULASKI ELEM	5	3.86	8	207
	SMYSER ELEM	1	3.80	12	316
	GUNSAULUS ELEM	8	3.79	11	290
	TRUMBULL ELEM	2	3.77	14	371
	FULTON ELEM	12	3.60	8	222
	HURLEY ELEM	15	3.49	9	258
	KOSCIUSZKO ELEM	6	3.45	6	174
	CLAY ELEM	20	3.43	14	408
	COONLEY ELEM	3	3.39	12	354
*	RANDOLPH ELEM	15	3.30	3	91
	DAWES ELEM	15	3.25	19	584
*	BURR ELEM	6	3.13	2	64
	HALE ELEM	12	3.11	13	418
	SCHNEIDER ELEM	5	3.09	5	162
	FALCONER ELEM	4	2.96	13	439
	OTIS ELEM	6	2.89	5	173
	YOUNG ELEM	4	2.72	8	294
*	YATES ELEM	6	2.72	4	147
	TONTI ELEM	12	2.46	10	406
	LOCKE ELEM	4	2.40	10	416
	GRAHAM ELEM	13	2.32	15	646
*	SEWARD ELEM	13	2.25	2	89
	ARMOUR ELEM	11	2.16	8	370
	STEVENSON ELEM	15	1.96	9	460
	LYON ELEM	4	1.90	6	316
	DARWIN ELEM	5	1.88	3	160
	HAYT ELEM	2	1.81	6	332
*	ANDERSEN ELEM	6	1.71	2	117
	TWAIN ELEM	12	1.66	5	302
	GOETHE ELEM	5	1.55	3	193
	MURPHY ELEM	1	1.55	5	322
	MCCLELLAN ELEM	11	1.50	3	200
	MAYER ELEM	3	1.3[illegible]	4	295
	BUDLONG ELEM	1	1.3[illegible]	8	602
	BURBANK ELEM	4	1.30	4	308
	NOBEL ELEM	5	1.28	3	235

Table B-4

High Schools (9-12) with More Than
Fifty White Students and More Than
1.25% of These Students in EMH Classes
(1980-81 School Year)

	SCHOOL	DISTRICT NUMBER	% WHITE STUDENTS IN EMH	NUMBER WHITE STUDENTS IN EMH	SCHOOL'S WHITE STUDENT ENROLL'T
*	BOWEN LAS CASAS	19	12.96	7	54
*	TILDEN HIGH SCHOOL	13	9.40	14	149
	WELLS HIGH SCHOOL	6	6.32	11	174
*	JUAREZ HIGH SCHOOL	8	6.06	4	66
*	HARRISON HIGH	8	4.69	3	64
	LAKE VIEW HGIH SCHOOL	3	3.88	19	490
	SCHURZ HIGH SCHOOL	4	3.27	61	1868
	KELLY HIGH SCHOOL	8	3.18	39	1226
	GAGE PARK HIGH SCHOOL	12	2.87	19	663
	LINCOLN PARK HIGH	3	2.86	7	245
	ROOSEVELT HIGH SCHOOL	1	2.82	30	1065
	SENN HIGH SCHOOL	2	2.36	16	679
	AMUNDSEN HIGH SCHOOL	2	2.03	21	1036
	SULLIVAN HIGH SCHOOL	2	1.66	10	604
	HUBBARD HIGH	15	1.45	19	1310
	STEINMETZ HIGH SCHOOL	4	1.32	23	1741
	RICHARDS VOCATIONAL HIGH	11	1.25	2	160

APPENDIX C
Chronology of Major Events Related to the Reform of Chicago's EMH Program

December 1974

Parents of Children in Special Education filed a lawsuit against the Chicago Public Schools, charging that the school system's practices for placing children in classes for the Educable Mentally Handicapped were discriminatory (PASE v. Hannon).[200] The lawsuit focused especially on the school system's heavy reliance on IQ tests in making placement decisions, although IQ tests have never been validated for the purpose of placing minority students in EMH classes. The lawsuit also objected to lack of parent involvement in EMH assessment and placement and failure to determine whether students recommended for EMH classes might have other handicaps that accounted for their learning difficulties.

January 1980

After preliminary legal procedures that took over five years, the PASE case went to trial. The plaintiff parents produced evidence to support their claim that the school system's procedures were discriminatory. The school system argued that the higher percentage of black students in EMH classes could be traced to the higher incidence of poverty among Chicago's black students, which "interfered with the development of intellectual skills."[201]

July 1980

Judge John Grady ruled that Chicago's EMH placement procedures were not discriminatory, finding for the defendants (the Chicago Public Schools). He placed a heavy emphasis in his decision on an item by item review of the IQ tests involved, reaching personal judgments about whether or not particular items were biased, and asserting that most of them were not.[202]

August 1980

Judge Grady's ruling in the PASE case was appealed to the U.S. Court of Appeals for the Seventh Circuit by the attorneys for the plaintiff parents.[203]

September 1980

The school system and the U.S. Department of Justice entered into an agreement (a consent decree) to settle the federal government's lawsuit against the school system concerning alleged segregation in the Chicago Public Schools (United States v. Chicago Board of Education).[204] This consent decree was approved by federal Judge Milton Shadur. In the consent decree, the school system agreed to make changes that would insure non-discrimination in all aspects of student assessment and

placement, a commitment that had potential implications for the EMH program. The consent decree obligated the school system to develop and implement a detailed plan for student desegregation and for the provision of educational services to minority students.

April to June 1981

The Chicago school board approved a plan for the "educational components" of the desegregation effort.[205] As part of this plan and as a result of negotiations with attorneys in the PASE case, the school system agreed to discontinue the use of IQ tests in EMH assessment and to develop new testing methods for EMH.[206] The school system began carrying out the provisions of its plan for the "educational components" immediately, while Judge Shadur was gathering further evidence and reaching a final decision concerning the adequacy of the plan.

April 1981

Judge Shadur requested that the public submit formal comments ("amicus curiae briefs") commenting on the adequacy of the educational components of the school district's plan for carrying out the consent decree.[207]

August 1981

Designs for Change submitted an amicus curiae brief focusing on the EMH misclassification issue. It argued that the school system's plan for dealing with discrimination in the EMH program was too vague. It asked the court to require the board to develop specific timetables for reassessing EMH students, to allocate sufficient staff for the reassessment process, to provide follow-up help to students moved back into the regular school program, to provide staff development for the teachers involved, and to establish a record-keeping system for reporting progress in carrying out the reclassification.[208] DFC also asked, as did several other groups who submitted comments, that an independent monitoring commission be set up that would assess the school system's progress in implementing its plans and would report directly to the court and the public.[209]

August 1981

The school system replied to the Designs for Change brief, arguing that the court should not require the types of specifics DFC requested, which should be left to the discretion of the school system. Further, the school system committed itself to "confer with these organizations [DFC and others who had submitted comments] at a staff level and to provide specific information on the activities of the Board which relate to these concerns. . . ."[210]

November 1981

Judge Shadur ordered the school system to respond to criticisms of the school system's plan made by DFC and several other organizations who submitted amicus curiae briefs.[211]

January 1982

The school system's attorneys submitted to the court a tentative plan for dealing with the EMH problem that responded to several of the criticisms raised by DFC.[213] The school system's tentative plan included record-keeping concerning the numbers of students in EMH, transitional services for EMH students returned to the regular classroom, hiring of consultants to retest all children in EMH classes by the end of the 1982-83 school year, and staff development for both special education and regular program teachers. However, the school system indicated that this represented only the thinking of its staff, not a binding legal commitment.[213]

February 1982

The school system released a report prepared by three consultants who are nationally known for their work on misclassification of minority students (Dr. Harold Dent, Dr. Robert Griffore, and Dr. Jane Mercer). The report made a series of specific recommendations as to how thorough effective reform of the EMH program could be carried out.[214]

February 1982

DFC submitted a second amicus curiae brief, observing that while the staff's plans for dealing with EMH misclassification had several positive features, it was a tentative plan that the school system had made no firm commitment to carry out.[215] Thus, DFC asked the judge to incorporate these tentative plans into the legal commitments that were part of the "educational components" of the desegregation plan. DFC also reiterated its earlier request that an independent monitoring commission be set up that reported directly to the court and the public.

March 1982

Based on the commitments made by the school board in the desegregation case, the plaintiffs in the PASE case and the school system agreed to terminate the legal proceedings in the PASE case, bringing it to an end.[216]

May 1982

To pursue the school system's commitment to provide information to DFC concerning specific steps for addressing the EMH problem, DFC met with Dr. Ora McConnor (who has overall responsibility for special education) and several key members of her staff. These school system staff members indicated that they were planning a pilot reassessment project in two administrative districts for spring 1982, to be followed by a massive retesting and reclassification project for all current EMH students to be completed during the 1982-83 school year.

May 1982

In a follow-up telephone conversation with Dr. McConnor, DFC asked that DFC psychologists be permitted to examine the specific tests being used in reclassification, that DFC be provided information about the nature and results of the pilot reclassification program, and that DFC be provided with information about specific plans for transitional services to children who were reclassified. Dr. McConnor suggested DFC could obtain this information by meeting with several members of her staff individually. However, when DFC attempted to schedule appointments with them, they delayed in responding and ultimately indicated that DFC should again meet with several staff members at once.

July 1982

DFC again met with Dr. McConnor and members of her staff and again asked to examine the specific tests being used in reclassification, to obtain information about the results of the pilot reclassification project (by then completed), and to obtain information about plans for providing transition services to students who were reclassified. The school system's staff declined to answer many of these questions, but provided limited information that raised strong apprehensions about the quality of tests and testing procedures being used and the adequacy of plans for transitional services.

August 1982

DFC wrote a detailed letter to Dr. McConnor, asking for information responsive to unanswered questions.[217]

August 1982

Dr. McConnor telephoned DFC, indicating that she would not be responding to our letter requesting information, but had referred the letter to the school system's attorneys.

September 1982

The school system initiated a retesting and reclassification program for all of the approximately 12,000 students in EMH classes, which it aimed to complete by the end of the 1981-82 school year.

October 1982

Not having received information responding to earlier requests, DFC wrote to Dr. Ruth Love, General Superintendent of Schools, asking her to meet with DFC staff in early November to facilitate DFC's access to requested information and to discuss what appeared to be serious shortcomings in the school system's response to the misclassification problem.[218] At the same time, a letter was sent to Robert Howard, the school system's lead attorney for the desegregation case, reiterating our request for information.[219]

November 1982

Dr. Love indicated in a letter that her schedule made it impossible to meet with DFC staff in early November, but that Dr. Ben Williams would be in contact with us to discuss our concerns.[220]

November 1982

DFC received information responding to some of the questions addressed to Dr. McConnor in the form of a letter with attached materials written by Dr. Ben Williams, who coordinates the school system's desegregation activities.[221]

APPENDIX D
Excerpts from the November 1, 1982, Letter from the Chicago Public Schools

NOTE: The following excerpt, including an accompanying table, is the school system's response to inquiries by Designs for Change about the procedures through which the "Experimental Battery" was developed and about the technical adequacy of this Experimental Battery. The excerpt is from a letter sent by Dr. Ben Williams, Associate Superintendent for Equal Educational Opportunity, Chicago Board of Education, and dated November 1, 1982.

Nontraditional Techniques.

In response to the inquiry concerning specifics of the "Nontraditional techniques referred to" in the May, 1982 Desegregation Progress Report (p. 27), the following data is submitted:

- A Research committee was established composed of Bureau of Child Study staff who continued to have evaluative responsibilities in the system. The committee included: a clinician researcher; a test designer; an experienced psychologist who chaired the original pilot study (see November 1981 Desegregation Progress Report, p. 20), an expert in quantitative techniques, and a non-biased assessment presenter.

- This committee developed a procedural design based on:

  . review of research and field test data

  . discourse and correspondence with universities and other school districts (see enclosure #8)

  . participation of members of Research Committee in the standardization of innovative instruments (Kaufman's ABC-Revised Vineland) involving Research Committee members

  . extensive research of available literature focusing on non-biased assessment and review of earlier research efforts.

Culmination of these research procedures resulted in the following conclusions:

. Concentration on measuring the end-product, as many current assessment instruments do, is most vulnerable to experiential influences and/or cultural bias.

. Existing instruments yield little information regarding how a child "processes" information affording little insight into "learning style" or underlying deficits that might be amenable to intervention.

. Existing adaptive behavior scales, especially for older children, are limited in interpretative value in that they fail to elicit significant interpretative information pertaining to learning rate, learning style, cognitive flexibility (adaptiveness), and effective social reasoning.

. To aid in the integration of complex multi-modal, multi-faceted assessment procedure, the need was suggested to develop some procedures to add structure to certain techniques.

An initial attempt to develop test procedures which afforded assessment of "process" and avoided the bias associated with techniques heavily dependent on product, was undertaken by members of the Research Committee. Utilizing a comprehensive approach, these devices using "test-teach-test" and information processing tasks (Feuerstein, 1979; Sternberg, 1981) together with a select group of relatively culture-free instruments were selected because of these features and because they afforded insight into "process", affording additional diagnostic information which could be utilized by a psychologist together with measures of adaptive behavior, to aid in determining continued eligibility for EMH programming, which was a major objective this year.

The Bureau of Child Study is still in the process of collecting data from Districts #2 and #19 which constituted the pilot districts on which the experimental battery was begun. As indicated, limited staff and resources (time and funding) impedes a quick culmination to this activity. We require:

- A discriminant analysis of the entire battery,
- Correlations between independent results,
- ANOVA of 3 Races (White, Black, and Hispanic) x 2 sexes x 3 ages (Primary, Intermediate, and Advanced),
- Cluster analysis of the total set of techniques.

It will be necessary to complete data collection from control groups in order to complete the process.

The goals of these activities are to:

develop a locally normed set of non-discriminatory techniques of student's cognitive and adaptive functioning,

- develop individual intervention techniques to be utilized in the classroom setting,
- aid in curriculum planning and development for students presenting unique educational needs,
- develop supportive teaching strategies for regular and special education teachers.

"HIGHLIGHTS OF ASSESSMENT MEASURES"

Title, Author, and Publisher	Description	Norms/ Reliability/ Validity	Comment
"Goodenough-Harris Drawing Test (Draw-A-Man) Harris, 1963 Psychological Corporation	Child is asked to draw a man, woman, and self. Provides a Deviation IQ (M=100, SD = 15). For ages 3-0 to 15-11 years. Takes approximately 5 to 15 minutes to administer.	Norms are excellent. Reliability somewhat poor, but validity is satisfactory.	A useful supplementary instrument for measuring cognitive ability. Can be used as a screening instrument. May be less culturally loaded than other intelligence tests."1) - Gesell, Utilized to assess stages of maturity. - Piaget, Utilized to estimate level of cognitive development. - Has been researched by Freeman, for use in assessment of cognitive and perceptual development, as evidenced from an information-processing perspective. - Also utilized as a projective instrument for personality assessment.
VMI, Keith E. Beery, 1967 Follett Publishing, Co./ Chicago	Perceptual-motor ability test for children aged 2 through 15 years. Child is asked to copy forms, in order, without erasures. Provides age equivalents for raw scores, with separate tables for boys and girls.	Reliability is excellent, Validity is satisfactory. Standardized on urban, rural, and suburban populations.	Useful for measuring visual-motor ability.

1) Sattler, Jerome. Assessment of Children's Intelligence and Special Abilities. Boston, Massachusetts: Library of Congress Cataloging in Publication Data, 1982. Appendix D, Pg. 614 & 615.

Title, Author, and Publisher	Description	Norms/ Reliability/ Validity	Comment
"Koh's Block Design" S.C. Koh ·elting Company	Child is presented with a set of blocks and asked to reproduce an illustrated design, of progressing difficulty. Score is both by speed and accuracy. Based on raw score, MA's derived range from age 5-3 to 19-11. Approximate administration time is 5 to 20 minutes.	Norms standardized on mentally handicapped population, yielding a correlation of +.67 (P.5 ± .05), and on general school population of +.80 (PE ± .01).	Test is potentially less culturally and experienc bound as research has shown that the Block Design tests are significantly less affected by school training than the Binet, but possess a high degre of co[illegible]ation and reliability. Affords examiner insight into child's ability to perceive spatial relationships, speed of performa impulsivity, and planning ability.
Test Teach Test Reuven, Feuerstein	Examiner administers a pretest to achieve a baseline score, followed by teaching principles and skills which are involved. subsequent to which, a final series of tests are given which affords a measure of child's learning potential.	Currently being researched at the John F. Kennedy Center for Research and Education and Human Development at George Peabody College, Vanderbilt University. Ongoing research by Fuerstein and Budoff. Technique has been positively accepted by Hilliard, Mercer, Jensen, and others. Field testing has resulted in positive preliminary findings, as well as support by psychologists who have employed it.	Relatively culture-free measures of nonverbal abil It is an attempt to measure learning ability directly, with the purpose of determining what the child can learn. It represents an attempt to asse "process" rather than "product." Findings of research to date indicate significant I.Q. gains when children, previously diagnosed as slow-learners by traditional instruments, were taught skills evidenced as lacking through evaluation of "process," and maintained these gains over a two year period. 2) These research findings support the use of these instruments for evaluatio as well as to develop effective intervention strategies.

Title, Author, and Publisher	Description	Norms/ Reliability/ Validity	Comment
CSC from: Meeker by: Davis Gorsich Daley Baer EMI from: Meeker by: Davis Gorsich Daley Baer 88	Power test in which child is required to look at stimulus figures, and then choose correct figure according to class, from five alternates. Child is given an incomplete statement, which he must complete by selecting the word or words which best complete the statement.	Standardized on rural, suburban, and urban Blacks and Whites. Norms are excellent.	Relatively culture free non-verbal test, which requires the child to logically reason the principal controlling likenesses or similarities. Standardized on a widely representative population of Blacks, Mexican-Americans, and Anglos. Requires child to identify the essential characteristics and logically complete a given concept. Standardized on a widely representative population of Blacks, Mexican-Americans, and Anglos.
Memory for Sentences, Woodcock-Johnson Psychoeducational Battery 1977 Teaching Resources Corp.	Sentence is read to child, which he is subsequently asked to repeat.	Norms are excellent. Reliability and validity relatively satisfactory.	Less culturally loaded test of memory of materials presented auditorily. Also offers measure of comprehension, as child has to make use of sentence meaning to aid recall. In addition, organization ability and expressive syntax can also be assessed.
Vineland Adaptive Behavior Scale (Publication date 1983) Pat Harris - editor by: Sparrow, Ph.D. Balla, Ph.D. Cicchetti, Ph.D. 103	Information obtained through various methods including, observation and interview.	Currently being researched.	Yields a picture of how the student functions in Communication, Daily Living Skills, Socialization Motor Skills, and Maladaptive Behavior domains, within his cultural milieu. 104

AREAS ASSESSED

	PROCESS	POTENTIAL CAPACITY	COGNITIVE ABILITY	COMPREHENSION	MENTAL MATURITY	COGNITIVE FLEXIBILITY	CONCEPTUALIZATION	PLANNING ABILITY	ANALYSIS and SYNTHESIS	LONG-TERM MEMORY	SHORT-TERM MEMORY	REASONING	PERCEPTUAL DEVELOPMENT	CONFIGURATION ABILITY	DISCRIMINATIVE PERCEPTION	SPATIAL RELATIONSHIPS	PSYCHO-MOTOR SPEED	MOTOR DEVELOPMENT	EXPRESSIVE LANGUAGE	RECEPTIVE LANGUAGE	COMMUNICATION SKILLS	ADAPTIVE BEHAVIOR	IMPULSIVITY	ATTENTION
DRAW-A-PERSON	X		X		X								X											X
VMI	X							X					X	X		X	X						X	X
CSC	X		X			X	X					X			X								X	X
EMI	X		X	X		X	X			X		X			X									X
MEMORY FOR SENTENCES			X	X							X			X					X					X
KOHS BLOCK DESIGN	X		X		X				X					X	X	X	X						X	X
TEST-TEACH-TEST	X	X	X	X	X										X									X
ADAPTIVE-VINELAND																		X		X	X	X		
(ADAPTIVE PROPOSAL)	X		X	X	X	X	X	X				X		X						X	X	X		

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Notes

1/ The fact that the number of students in Chicago's classes for the Educable Mentally Handicapped exceeded 12,000 from the 1970-71 school year through 1980-81 is indicated in Table 4. Detailed data from 1981-82 have not been made public; however, in a meeting with Designs for Change staff on May 3, 1982, Dr. Alice Zimmerman, Director of the Bureau of Mentally Handicapped, indicated that the 1981-82 EMH enrollment was close to 13,000 students. Further, the school system responded to DFC's written request for information about the school system's reclassification project through a letter from Dr. Ben Williams, Associate Superintendent for Equal Educational Opportunity, which was dated November 1, 1982. This letter is subsequently referred to as "November Letter." The November Letter (p. 6) indicates that more than 12,000 students were in the EMH program and were going to be retested.

2/ This estimate was based on the consistent observation that if proper assessment procedures are employed in a school system, no more than 1.25% of any ethnic group will be assigned to EMH classes. The rationale for this standard is explained in Note 110.

3/ Robert L. Green, Student Desegregation Plan for the Chicago Public Schools: Recommendations on Educational Components (Chicago: Board of Education of the City of Chicago, 1981), p. 42. This report is subsequently referred to as Educational Components.

4/ The two lawsuits that have addressed the problem of misclassification in Chicago are Parents in Action on Special Education (PASE) v. Hannon, 506 F. Supp. 831 (N.D. Ill. 1980); and United States of America v. Board of Education of the City of Chicago, No. 80 C 5124 (N.D. Ill. 1980) (consent decree approved by court). (Subsequently, these cases are referred to as PASE v. Hannon and United States v. Chicago Board of Education.) The relationship of these cases to Chicago's misclassification problem is discussed in Section 3.

5/ The number of students enrolled in EMH in other U.S. school systems has never approached the more than 12,000 students enrolled in Chicago's EMH program; thus, a reclassification project of this size has never before been necessary in the U.S. The Task Force on Non-Discriminatory Assessment and Special Education, convened by the school system, estimated that $8,900,000 would be needed to complete the reassessment (Task Force on Non-Discriminatory Assessment and Special Education, Task Force Report (Draft). Mimeographed. No Date.). The consulting firm of Booz, Allen, and Hamilton studied Chicago's special education assessment process in 1982 and estimated that each case study evaluation cost the school system $1,625; based on this estimate, the retesting of 12,000 children would cost $19,500,000. (Booz, Allen, and Hamilton, Inc., Chicago Board of Education Cost Reduction Survey. Report to Mayor Jane M. Byrne, July 1982, p. v-A-3.) It is not clear to what extent the school system is using new funds for this project, as opposed to shifting personnel from other responsibilities. In either case, of course, the project is "costing" the school system the money paid to staff involved for time they spend on the project.

6/ See Section 4 and Note 127 for explanations of reforms adequate to eliminate EMH misclassification, based on the experience of other school systems.

7/ The source of this information and of data presented in Tables 1, 2, 3, and A-1 is U.S. Department of Education, Office for Civil Rights, Survey of Elementary and Secondary School Districts, and Schools in Selected School Districts: School Year 1980-1981. During every second school year, the federal Office for Civil Rights (OCR) collects data about the ethnic composition of various special education programs in a percentage of U.S. school districts, including the largest ones. A computer tape of this data was made available by the Office for Civil Rights to Designs for Change; this computer tape contains school-by-school data and district totals for the special education programs for Chicago and the five other urban school districts about which data are presented in Tables 1, 2, 3, and A-1. (Office for Civil Rights, Computer Tape ELSEC 80 Master 69.) For New York, Los Angeles, Philadelphia, Detroit, and Houston, school district totals for overall enrollment by ethnic group and EMH enrollment by ethnic group were used to generate the

figures presented. For Chicago, a number of further steps were taken to analyze EMH enrollment and total enrollment figures, so that the analyses of EMH enrollment for the school system as a whole, for its administrative districts, and for its individual schools would be as accurate as possible. Chicago submitted information about its special education programs to OCR on a computer tape of its own, called the "Chicago report to OCR" below. The Chicago report to OCR breaks special education enrollment down into smaller categories than the ones requested by OCR. Designs for Change obtained a printout of the Chicago report to to OCR and was able to use this information to cross-check the accuracy of the steps that OCR took in transferring the Chicago data to its own national tape. Based on an analysis of the OCR computer tape and the printout of the Chicago report to OCR, the following adjustments were made to the data on the OCR tape: (1) A series of errors in totalling numbers were introduced into the data when Chicago school personnel hand-calculated various school totals; these errors were corrected; (2) OCR had included students in Chicago's program for the "Educationally Handicapped" or "EH" as part of the EMH total; using the Chicago report to OCR, EH students were subtracted out on a school-by-school basis; (3) data from seven schools, eliminated from the OCR tape, probably due to an OCR programming error, were added to the OCR tape from the Chicago report; (4) the numbers of EMH students in three schools were adjusted for the administrative district analysis described in Section 2 because white EMH students were reported in these schools even though no white students were enrolled in these schools based on the Chicago report to OCR. Further information about methods for analyzing the Chicago data submitted to OCR is presented in subsequent notes. This data source is referred to subsequently as the 1980-81 OCR Survey.

8/ See Tables 4 and A-2.

9/ 1980-81 OCR Survey. See Note 7.

10/ Ibid.

11/ See Tables 3 and A-1. The unjustified over-representation of black and other minority students in EMH classes is identified as a major national problem in education by the National Research Council of the National Academy of Sciences, National Academy of Engineering, and Institute of Medicine. In 1979, a Panel on Selection and Placement of Students in Programs for the Mentally Retarded was appointed by the National Research Council to analyze the EMH problem, and this panel developed detailed recommendations for eliminating discriminatory misclassification (Panel on Selection and Placement of Students in Programs for the Mentally Retarded, Placing Children in Special Education: A Strategy for Equity Washington, D.C.: National Academy Press, 1982). This report is referred to subsequently as National Academy of Sciences Report.

12/ National Academy of Sciences Report. The report summarizes evidence concerning unjustified racial disparities in referral practices for special education evaluation, tests and testing procedures employed, and informed parental involvement in assessment and placement decisions.

13/ Jane R. Mercer, Labelling the Mentally Retarded (Berkeley: University of California Press, 1973). This is a ground-breaking study of the characteristics of children and adults labelled as mentally retarded by the schools and various other social systems within an ethnically mixed community. See also, M. Stephen Lilly, "Toward a Unitary Concept of Mental Retardation," Education and Treatment of Children (September 1981).

14/ Ibid.

15/ Ibid.

16/ National Academy of Sciences Report, p. 10.

17/ Ibid., p. 27.

18/ Ibid., p. 169.

19/ Ibid. If proper assessment procedures were employed (see Section 4) that included an appropriate test of "adaptive behavior," only a modest percentage of those children currently in EMH classes would be identified as experiencing such difficulties.

20/ 1980-81 OCR Survey. See Note 7.

21/ SRI International, Studies of Handicapped Students, Volume 2 (Menlo Park, Ca.: Author, 1978), p. v.

22/ National Academy of Science Report, p. 87. The report cites a variety of research indicating that children labelled EMH are usually indistinguishable from a variety of other children who exhibit learning problems in school, such as children provided with special education services for the learning disabled and children in compensatory education classes.

23/ Ibid., pp. 101-105. See also, Reuven Feuerstein, The Dynamic Assessment of Retarded Performers (Baltimore: University Park Press, 1979).

24/ Experts on the EMH misclassification issue retained by the Chicago school system made this point about the desirability of mainstreaming EMH students and specifically recommended that the school system do so. See Harold Dent, Robert J. Griffore, and Jane Mercer, "Special Education and Testing," in Consultants' Research Reports on Various Aspects of the Educational Components, submitted to Judge Milton Shadur in United States of America v. Chicago Board of Education, filed February 1982, p. III-18. This report is referred to subsequently as Consultants' Report.

25/ National Academy of Sciences Report, p. 84.

26/ See Tables 6 and A-4.

27/ Feuerstein, The Dynamic Assessment of Retarded Performers, p. 17. Feuerstein cites evidence indicating that 90% of students who enter special education programs in several large urban school systems remain in these programs for the duration of their school careers. Suggesting that the rate of retention in EMH is very high in Chicago is the fact that the percentage of Chicago's students in EMH increases substantially from elementary school to high school (see Table 7).

28/ National Academy of Sciences Report, p. 291.

29/ Feuerstein, The Dynamic Assessment, p. 17.

30/ Interview with Joan M. First and W. Alan Coulter, August 12, 1981. Ms. First, currently director of the National Clearinghouse for Misclassification Information, and Dr. Coulter, currently Supervisor, Pupil Appraisal Systems, Louisiana State Department of Education, helped to design the model reclassification project in Champaign, Illinois (see Section 4) and have been consultants to numerous school systems attempting to address the EMH problem. They described this pattern of increasing academic deficit for EMH students with increasing age as characteristic of a number of school districts with whom they had consulted.

31/ National Academy of Sciences Report, pp. 95-105; Jane R. Mercer, "A Policy Statement on Assessment Procedures and the Rights of Children," Harvard Educational Review 44 (February 1974): 125-141.

32/ National Academy of Sciences Report, pp. 105-110.

33/ Ibid.

34/ Ibid. See Note 11.

35/ Ibid., pp. 92-117.

36/ Consultants' Report. See Note 24.

37/ See Section 4.

38/ See, for example, Education for All Handicapped Children Act, P.L. 94-142, 20 U.S.C. 1412

(5)(C), and implementing regulations 34 C.F.R. 300.530-534; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, and implementing regulations 45 C.F.R. 84.35; and Illinois School Code, ILL. REV. STAT. ch. 122, sec. 14-8.02, and implementing Illinois Rules and Regulations to Govern the Administration and Operation of Special Education, sec. 9-11.

39/ See, for example, P.L. 94-142, 20 U.S.C. 1415 (b)(1) and ILL. REV. STAT. ch. 122., sec 14-8.01, (parents' right to examine all records and obtain independent evaluation for child; parents' right to receive written notice whenever decision is made to initiate evaluation or make a change in special education placement, and parents' right to object to any matter relating to identification, evaluation, or placement of child).

40/ Consultants' Report, pp. III-10 and III-17.

41/ 1980-81 OCR Survey. See Note 7.

42/ See Note 1.

43/ The 1980-81 data presented in Table A-3 came from the 1980-81 OCR Survey. Note 7 explains how the 1980-81 EMH totals for Chicago were generated. The 1980-81 totals for trainable mentally handicapped, specific learning disability, emotional handicap, and speech impaired were taken from the OCR computer tape (see Note 7) by summing school-level data. The totals for educational handicap were taken from the Chicago report to OCR (see Note 7) by summing school-level data. The totals for physical handicap were determined by summing the school district level data in the Chicago report to OCR for the following categories: blind, deaf, partially sighted, hard of hearing, other health impaired, and physical (home-hospital).

Note that totals in Table A-3 are for white, black, and Hispanic students for both 1980-81 and 1979-80. Other minorities are not included in the totals.

The 1979-80 data presented in Table A-3 came from the Consultants' Report, p. III-10 (see Note 24). To make the categories for handicapping conditions used by the consultants consistent with those reported by OCR, we collapsed the categories that the consultants reported as follows: behavior disordered and emotionally disturbed were combined as emotionally handicapped; EMH primary and EMH advanced were combined as a single EMH category; severe learning disability and moderate learning disability were combined as specific learning disability; and blind, deaf, partially sighted, hard of hearing, other health impaired, and physical (home-hospital) were combined as physical handicap.

One indication of the accuracy of the 1980-81 data and DFC's analysis of it is that the percentages by ethnic group for 1979-80 drawn from the Consultant's Report closely mirror the ethnic percentages for 1980-81 drawn from the 1980-81 OCR Survey, as Table A-3 clearly indicates.

44/ Total school system enrollment presented in Tables 4 and A-2 came from the Chicago school system's Comprehensive Student Assignment Plan which was filed with the federal district court in United States v. Chicago Board of Education on January 22, 1982. The EMH totals for years 1970-71 and 1973-74 through 1978-79 came from exhibits submitted by the plaintiffs' attorneys in the PASE v. Hannon litigation. The EMH totals for 1979-80 were derived from the Consultants' Report; since the Consultants' Report presents a total only for black, white, and Hispanic students in EMH, an estimate of the number of other minorities in EMH was added to the Consultants' Report totals. The 1980-81 totals came from the 1980-81 OCR Survey (see Note 7).

45/ 1980-81 OCR Survey.

46/ This information is presented in Tables 3 and A-1 and comes from 1980-81 OCR Survey.

47/ National Academy of Sciences Report, p. 10, indicates that 1.06% of white students nationally are placed in EMH classes. Mercer, Labelling the Mentally Retarded, p. 189, found that less than 1% of both black and white individuals in Riverside, California were mentally retarded (including those who were severely retarded) if standards for judging mental retardation described in Section 4 were applied. As Table A-1 indicates, two large urban school districts where these same standards are being applied (Houston and Los Angeles) have respectively 0.57% and 0.39% of their white students in EMH classes. When these rates for whites are compared with Chicago's EMH placement rate of 1.74% for white students, these data suggest that Chicago has a substantial number of misclassified white students in EMH.

48/ See Table 5.

49/ Nicholas Hobbs captured this double-edged quality of student classification when he wrote: "The magnitude and complexity of the problem faced by policy-makers and practitioners can hardly be overstated, for the effects of classification can be both beneficial and harmful. For example, children who are categorized and labeled as different may be permanently stigmatized, rejected by adults and other children, and excluded from opportunities essential for their full and healthy development. Yet, categorization is necessary to open doors to opportunity, to get legislation, funds, service programs, sound evaluation, research, and even effective communication about the problems of exceptional children." Nicholas Hobbs, The Futures of Children: Categories, Labels, and Their Consequences, A Summary (San Francisco: Jossey-Bass, 1975), pp. 6-7.

50/ 1980-81 OCR Survey. See Note 43.

51/ "Substantial" over-representation or under-representation is defined as occurring when the percentage of black or Hispanic students in a given special education program is 30% more or 30% less than the white percentage. (These instances are represented by (+) and (-) notations in Tables 5 and A-3.) Given the numbers of children represented by the various cells in Table A-3, a 30% difference between the white rate and the black or Hispanic rate is statistically significant at an extremely high level.

52/ The viewpoint that school systems are under an obligation to explain racial disproportions in the enrollment in various school programs by showing that they serve a valid educational purpose has a long tradition in civil rights law. The burden should be on the school system to either justify practices leading to disproportions or change them. However, we are not suggesting that litigation is necessarily the most effective way to correct these discriminatory practices. Rather, as recommended in Section 6, informed parent and citizen groups must press the school system and its individual administrative districts and schools to explain and to alter their current practices by exerting sustained pressure on them through meeting with school officials, appealing to elected representatives to intervene, etc.

53/ 1980-81 OCR Survey. See Note 43.

54/ The National Academy of Sciences Report indicates that large school systems with low percentages of their Hispanic students assigned to EMH programs and programs for the learning disabled also had the highest percentages of their Hispanic students participating in bilingual programs (see pp. 367-375), suggesting (consistent with our interviews with Chicago teachers) that bilingual education is used as a substitute for special education programs for Hispanic students.

55/ The Chicago school system itself has identified the lack of bilingual special education personnel as a major need in its own planning documents. See Board of Education, City of Chicago, Bureau of Special Education, "Program Model Description: Bilingual Related Services for Mentally Handicapped and Learning Disabled Students of Limited English Proficiency" (typewritten, November 1981), p. 1.

56/ The inappropriateness of testing Spanish-dominant students for special education using tests in English was first raised in Diana v. State Board of Education, No. C-70-37 RFP (N.D. Cal. June 18, 1973). Since then, it has become a generally-accepted norm in education that such testing is inappropriate (see National Academy of Sciences Report, pp. 58-59). Rather than utilizing bilingual psychologists and bilingual testing procedures, however, some educators have responded by discouraging special education referrals for students with limited English proficiency. (See, for example, Donald R. Moore, et al., Student Classification and the Right to Read (Chicago: Author, 1981), p. 123-152.)

57/ 1980-81 OCR Survey. See Note 43.

58/ November Letter, Appendix A.

59/ The Consultants' Report (p. III-17) presented 1979-80 data which gives the percentage of students in each special education program who were assigned to regular classrooms, part-time

resource rooms, separate special education classrooms, separate facilities, and other facilities (e.g., home-hospital care). The consultants referred to these settings as "various levels of segregated educational settings." The Consultants' Report (p. III-10) also presents the total number of students in each special education category. Together these data were used to determine the actual number of students in each educational setting for each special education program. In Tables 6 and A-4, we combined the levels of segregated settings into three categories: regular classroom and part-time resource rooms were collapsed into a single "low" category; separate special education classrooms were designated as a "high" level of segregation; and separate facilities and other facilities were combined to form the "very high" category.

60/ The practice of providing special education services to minority students in more restrictive settings than those in which special education is being provided to white students has been documented in a number of school systems across the country. See, for example, Massachusetts Advocacy Center, Double Jeopardy: The Plight of Minority Children in Special Education (Boston: Author, 1978). The Consultants' Report singled this out as a major problem that should be rectified in Chicago (pp. III-17 to III-18). The consultants further noted that even within the EMH program, the small number of mainstream placements available involved a disproportionate number of white students (pp. III-34 to III-35).

61/ 1980-81 OCR Survey (see Note 7). An elementary school EMH student was defined as any EMH student attending a school with a grade structure serving grades kindergarten through eight or some subset of these grades. A high school EMH student was defined as any EMH student attending a school with a grade structure serving grades nine through twelve or any subset of these grades. Fourteen Chicago schools did not fall into either of these categories and thus were not included in this analysis.

62/ Ibid.

63/ 1980-81 OCR Survey (see Notes 7 and 61). For Tables 9 and A-5, schools were classified in terms of their administrative district according to Chicago Public Schools, Context for Achievement: Test Scores and Selected School Characteristics (Chicago: Author, 1982). The rankings for the percentage of low income students in each administrative district were also derived from Context for Achievement. "Number Eligible for Free Lunch" was divided by the student enrollment of the administrative district to obtain the percentage of the district's children eligible for free lunch. Districts were then ranked based on this percentage, with the district having the highest percentage of children eligible for free lunch ranked first.

64/ Ibid.

65/ PASE v. Hannon, p. 878.

66/ See Note 63 for an explanation of how this ranking was determined.

67/ Since the chief comparisons of interest in examining Tables 9 and A-5 are among the percentages of students in EMH in the various administrative districts, all districts with a total enrollment of 150 students or fewer in a particular student category (e.g., a district with a total enrollment of 150 or fewer white high school students) were excluded from the results presented in these tables. As Table A-5 indicates, the result is that all percentages are based on an enrollment figure that exceeds 300 students and most percentages are based on an enrollment figure that exceeds 1,000 students.

68/ Moore, Student Classification.

69/ The consolidation of EMH programs in specific schools, including isolated special education schools, was specifically criticized in the Consultants' Report as creating unwarranted separation of EMH students from the mainstream program (p. III-18).

70/ Education for All Handicapped Children Act, P.L. 94-142, 20 U.S.C. 1412 (5)(B); 34 C.F.R. 300.550, 300.552; Consultants' Report, p. III-35.

71/ The basis for specifying 1.25% as a cutoff criterion is explained in Section 4 and particularly in Note 110.

72/ In 1960, the Chicago Public Schools reported a total of 6,286 students in EMH classes, Chicago Public Schools, Facts and Figures: September 1961 (Chicago: Author, 1961), pp. 15,16. For EMH enrollment in Chicago for years 1970 through 1981, see Table 4 and Table A-2.

73/ PASE v. Hannon

74/ Ibid., p. 878.

75/ See, for example, Donald N. Bersoff, "Testing and the Law," American Psychologist 36 (October 1981): 1047-56. Bersoff states that "Judge Grady's (analysis) can best be described as naive; at worst it is unintelligent and completely empty of empirical evidence. It represents a single person's subjective and personal opinion cloaked in the authority of judicial robes" (p. 1049). In another case, Larry P. v. Riles, 495 F. Supp. 926 (1979), the federal court for the Northern District of California reached a contrary result when it ruled on the use of I.Q. tests to place students in EMH classes in California. In Larry P., Judge Peckham held that the California schools were in violation of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Education for All Handicapped Children Act for using I.Q. tests that were found to be racially and culturally biased, and had not been validated for the purpose of placing black children in EMH classes. See Note 92 for the effect of this ruling. The decision in Larry P. is being appealed.

76/ United States v. Chicago Board of Education, consent decree approved September 24, 1980.

77/ PASE v. Hannon, Stipulation to Terminate Proceedings, filed March 24, 1982.

78/ Response of Designs for Change to the Chicago School Board Proposed Desegregation Plan, filed August 3, 1981, United States v. Chicago Board of Education. This response is subsequently referred to as "Designs for Change's First Response."

79/ Response by the Staff of the Chicago Board of Education to Comments of the Hispanic Organizations and Designs for Change Concerning the Educational Components of the Board's Desegregation Plan, pp. 17-19, filed January 29, 1982, United States v. Chicago Board of Education. This response is subsequently referred to as "Staff's Response."

80/ Response of Designs for Change to the Chicago School Board Proposed Desegregation Plan (Second Response), filed February 12, 1982, United States v. Chicago Board of Education. This response is subsequently referred to as "Designs for Change's Second Response."

81/ See Agenda for City-Wide Orientation for Psychologists, Records Staff Development Day, Thursday, June 24, 1982, contained in November Letter.

82/ Board of Education of the City of Chicago, Progress Report on the Implementation of the Student Desegregation Plan: May 1982 (Chicago: Author, 1982), p. 30. This report is subsequently referred to as the May 1982 Progress Report.

83/ November Letter, p. 6.

84/ Ibid.

85/ National Academy of Sciences Report (see Note 11); Consultants' Report (see Note 24); H.J. Grossman, Manual on Terminology and Classification in Mental Retardation: American Association on Mental Deficiency (Baltimore. Garamond/Pridemark, 1977); American Psychological Association, American Educational Research Association, and National Council on Measurements Used in Education, Standards for Educational and Psychological Tests (Washington, D.C.: American Psychological Association, 1974); American Psychological Association, "Ethical Principals of Psychologists," American Psychologist 36 (June 1981): 633-38; Mercer, "Policy Statement on Assessment"; H. James Mahan Joan M. First, and W. Alan Coulter, "An End to Double Jeopardy: The Declassification/Transition of Minority EMH Students," Integrateducation (December 1981): 16-19. The classification standards for mental retardation developed by the American Association on Mental Defi-

ciency are the most widely accepted professional standards employed nationally; they are referred to subsequently as the AAMD Standards. The standards for test development and use listed above are generally accepted by a wide range of professional groups; they are referred to as the APA Test Standards. The ethical standards of the American Psychological Association are subsequently referred to as APA Ethical Standards.

86/ National Academy of Sciences Report, p. 187.

87/ SRI International, Studies of Handicapped Students; National Academy of Sciences Report, p. 38.

88/ Both federal and state laws require the development of an individualized educational plan for each handicapped child. See, for example, the Education for All Handicapped Children Act, P.L. 94-142, 20 U.S.C. 1412(4); and Article 14 of the Illinois School Code, ILL. REV. STAT. ch. 122, sec. 14-8.02.

89/ National Academy of Sciences Report, pp. 105-108; Consultants' Report, pp. III-17 to III-18.

90/ Education for All Handicapped Children Act, P.L. 94-142, 20 U.S.C. 1414 (5) (annual review requirement); 34 C.F.R. 300.534 (three-year reevaluation requirement).

91/ See Note 27.

92/ For example, the federal district court's decision in Larry P. v. Riles resulted in the return of more than 11,000 EMH students to regular classrooms in California. Most received at least some form of transitional help, although it was often minimal. See C. Edward Myers, et al., Correlates of Success in Transition of MR to Regular Class, Final Report, Bureau of Education for the Handicapped, Grant No. OEG-0-73-5363, 1975.

93/ Mahan, "An End to Double Jeopardy,"

94/ Moore, Student Classification

95/ Ibid.

96/ See Note 38.

97/ National Academy of Sciences Report, pp. 300-321; William H. Wilken and David O. Porter, State Aid for Special Education: Who Benefits? (Washington, D.C.: National Institute of Education, 1977).

98/ National Academy of Sciences Report, pp. 68-73.

99/ National Academy of Sciences Report, pp. 68-73; James A. Tucker, Nineteen Steps for Assuring Nonbiased Placement of Students in Special Education, (Reston, Va.: ERIC Clearinghouse on Handicapped and Gifted Children, 1980); James E. Ysseldyke and Richard R. Regan, Nondiscriminatory Assessment and Decision Making: Embedding Assessment in the Intervention Process (Minneapolis: Institute for Research on Learning Disabilities, University of Minnesota, 1979).

100/ National Academy of Sciences Report, p. 17.

101/ Ibid., pp. 68-73; Consultants' Report, pp. III-12 to III-13; Tucker, Nineteen Steps, pp. 1-8.

102/ Moore, Classification Strategies, pp. 115-118.

103/ Donald R. Moore and Arthur A. Hyde, Making Sense of Staff Development, Final Report, National Institute of Education, NIE-G-79-0070, 1981, describes staff development practices in three large urban school districts and concludes that staff development influences teacher behavior in a major way only if it is incorporated into an ongoing school-level improvement effort

that goes beyond formal staff development sessions. Moore and Hyde find the school principal to be pivotal in orchestrating such effective staff development activities. Lorna Idol-Maestas, et al., "Implementation of a Noncategorical Approach to Direct Service and Teacher Education," Department of Special Education, University of Illinois at Urbanna, 1981, (mimeographed), describes in detail the necessary training and responsibilities of such a resource teacher. The state of Vermont has adopted model legislation for the support of such resource teachers as a means of preventing inappropriate special education referrals (National Academy of Sciences Report, p. 103).

104/ Experts on EMH classification uniformly recommend that it is essential that other health problems or other handicaps not be mistaken for mental retardation and that assessment should include a systematic screening to identify such problems. See National Academy of Sciences Report, pp. 62-64. Such steps are specifically recommended in Consultants' Report, pp. III-20 to III-21.

105/ This requirement echoes the standard set by the American Association on Mental Deficiency that a child placed in EMH must have "subaverage general intellectual functioning," reflected in intellectual performance at least two standard deviations below the norm. The Illinois School Psychologists' Association recommends that this AAMD standard be used in Illinois school systems (Illinois School Psychologists' Association Newsletter, March-April, 1982). 97.7% of all children fall above this standard and 2.3% fall below it. IQ tests have never been validated for making this distinction, particularly for minority children, as noted in the Consultants' Report, p. II-28. The consultants recommended that the tests employed be based on the student's mastery of the school curriculum (p. III-30). Another approach that has been used successfully to eliminate racial disproportions in EMH classes is to modify the standard individual intelligence test by developing norms for specific ethnic groups in a way that yields an "estimated learning potential" for a child (Jane R. Mercer and J.F. Lewis, System of Multicultural Pluralistic Assessment (SOMPA): Student Assessment Manual (New York: The Psychological Corporation, 1977)). Whatever test is used, both the law and the professional standards of psychologists require that the testing procedure be an objective one that is valid and reliable, as described in detail in APA Test Standards, pp. 25-55.

106/ This requirement echoes the standard set by the American Association on Mental Deficiency that a child placed in EMH must not only have subaverage general intellectual functioning, but also "substandard adaptive behavior," ranking in the bottom 2.3% of the population (AAMD Standards). The AAMD defines adaptive behavior as "the effectiveness or degree to which the individual meets the standards of person independence and social responsibility expected of his age or cultural group." The Illinois School Psychologists' Association recommends that this AAMD standard be used in Illinois school systems (Illinois School Psychologists' Association Newsletter, March-April 1982). One major impetus for the AAMD to adopt this requirement came from Mercer, Labelling the Mentally Retarded. Mercer found that a test of adaptive behavior, based on a rating derived from a parent interview, identified children who had academic difficulties but functioned adequately outside the school context. She further found that the introduction of a test of adaptive behavior into the process for identifying mildly retarded children eliminated black overrepresentation resulting from child assessment. The Consultants' Report recommends that Chicago employ a valid and reliable test of adaptive behavior (pp. III-15).

107/ APA Test Standards. The National Association of School Psychologists accepts the APA standards.

108/ APA Test Standards describes the nature and importance of test reliability (pp. 48-50) and then lists and explains 15 "essential" standards for test reliability (pp. 50-55).

109/ APA Test Standards describes the nature and importance of test validity (pp. 25-31) and then lists and explains 43 "essential" standards for test validity (pp. 31-48).

110/ In applying these standards in Riverside, California, Mercer, Labelling the Mentally Retarded, found that less than 1% of black and white students could be considered intellectually sub-average, including those who were seriously retarded. In Los Angeles, the application of these standards has resulted in 1.0% of black students and 0.39% of white students being classified as EMH (see Table A-1); methods used are described in National Academy of Sciences Report, p.

201. In Houston, the application of these standards through the use of the SOMPA test battery has resulted in 1.21% of black students being assigned to EMH and .57% of white students being assigned to EMH. In Champaign, Illinois, use of the SOMPA system in a reclassification project left 1.02% of black students and .32% of white students in EMH classes. Such data suggest that proper assessment techniques will not result in more than 1.25% of any ethnic group being placed in EMH classes.

111/ Ibid.

112/ Consultants' Report, p. III-14.

113/ The cutoff score of 80 on the IQ test as used in Chicago is well above the criterion set by the AAMD Standards. Plaintiffs' Post-Trial Legal Memorandum, Appendix p. 5, filed February 12, 1980, PASE v. Hannon.

114/ Consultants' Report, pp. II-28 to III-29.

115/ 34 C.F.R. 300.533; ILL. REV. STAT. ch. 122, sec. 14-8.02; Illinois Rules and Regulations to Govern the Administration of Special Education, sec. 9.03.

116/ 20 U.S.C. 1401 (19), 1412 (b); 34 C.F.R. 300.340-349; ILL. REV. STAT. ch. 122, sec. 8.02; Illinois Rules and Regulations to Govern the Administration of Special Education, sec. 9.18(a).

117/ 34 C.F.R. 300.551 requires each school district to insure that "a continuum of alternative placements is available to meet the needs of handicapped children." This includes making "provision for supplementary services (such as resource rooms or itinerent instruction) to be provided in conjunction with regular class placement." 34 C.F.R. 300.551 (b)(2). The Consultants' Report, p. III-18, documents the fact that few of Chicago's EMH students are served in the regular program.

118/ Consultants' Report, p. III-18.

119/ National Academy of Sciences Report, pp. 207-213.

120/ Ibid., p. 39. The Consultants' Report notes that a review of a sample of student files in Chicago showed that IEPs and documentation of evalutations were "filled out in a perfunctory manner." (p. III-8).

121/ National Academy of Sciences Reports, p. 208.

122/ Interview with Joan M. First and W. Alan Coulter (see Note 30).

123/ Consultants' Report, pp. III-29 and III-30.

124/ National Academy of Sciences Report, pp. 105-106.

125/ Ibid.

126/ Ibid., pp. 108-110.

127/ Consultants' Report, p. III-6, describes the need for a transitional program in Chicago. Mahan, "An End to Double Jeopardy," describes the characteristics of the successful transitional program carried out in Champaign, Illinois, in which carefully selected and trained resource teachers played a crucial part. Lorna Idol-Maestas, "Implementation of a Noncategorical Approach' describes in detail the necessary training and responsibilities of such a resource teacher. Reuven Feuerstein, Instrumental Enrichment (Baltimore: University Park Press, 1980) describes an approach to instruction aimed at drawing out the full potential of students who exhibit academic problems; this approach can be used as the basis for effective transitional programs.

128/ An adequate reclassification project must perform full case study evaluations adequate to meet the requirements of federal and state law. Such case study evaluations, if properly

conducted, should be adequate to detect other handicaps. It is inappropriate to test children in EMH classes with the purpose of merely deciding "whether or not they are EMH."

129/ National Academy of Sciences Report, pp. 105-108.

130/ Ibid., p. 108-110.

131/ See Note 127.

132/ Mahan, "An End to Double Jeopardy."

133/ Rose M. Adkisson, "Declassified EMH Students Make Gains," Integrateducation 18 (December 1981): 20-22.

134/ National Academy of Sciences Report, p. 17.

135/ Ibid.; Interview with Joan M. First and W. Alan Coulter (see Note 30).

136/ Consultants' Report, p. III-21 to III-24.

137/ National Academy of Sciences Report, p. 209-213.

138/ Consultants' Report, pp. III-21 to III-24.

139/ The central role of the school principal in numerous aspects of school effectiveness has been recently documented, from the promotion of basic skill development to the maintenance of effective school discipline. Moore, Student Classification, documents the crucial role that school principals play in promoting appropriate student referral and classification, based on a study of fifteen elementary schools in two school districts.

140/ Ibid.

141/ Ibid.

142/ Ibid.

143/ Ibid., pp. 96-107.

144/ Ibid.

145/ Interview with Joan M. First and W. Alan Coulter (see Note 30).

146/ For example, reforms in the referral process and successful transition programs must inevitably involve the active cooperation of the administrators and teachers responsible for the regular education program.

147/ National Academy of Sciences Report, pp. 110-114.

148/ The typically lax and sporadic nature of state and federal enforcement in a variety of areas has been consistently documented; see, for example, National Institute of Education, The Vocational Education Study. The Final Report (Washington, D.C.: Author, 1981); National Institute of Education, Administration of Compensatory Education (Washington D.C.: Government Printing Office, 1977); and Project on Equal Education Rights (PEER), NOW Legal Defense and Education Fund, Stalled at the Start: Government Action on Sex Bias in the Schools (Washington, D.C.: Author, 1977). With respect to special education, limited federal and state enforcement, especially with respect to issues affecting minority children, was documented by the federal government in Task Force on Equal Educational Opportunity for Handicapped Children, Report to the Secretary of Education (Washington, D.C.: Author, 1981).

149/ For example, Massachusetts Advocacy Center, Double Jeopardy, documents the failure to analyze such data and use it in enforcement efforts in Massachusetts. In Illinois, the Illinois

State Board of Education annually collects data about the composition of special education programs by ethnic group, but these data are not published and there is no evidence of their systematic use in state enforcement efforts.

150/ Task Force on Educational Opportunity for Handicapped Children.

151/ Ibid.

152/ In Illinois, state reimbursements for special education through the mid-1970s provided a positive financial incentive to create special education classes in many instances, because the funds gained from the state were greater than the additional local funds required to create additional classes. Because state reimbursements have failed to keep pace with inflation, this is no longer true. However, once an extensive system of special education classes is in place and large numbers of professionals have a stake in their maintenance, the resulting organizational and political pressures for maintaining these classes are weighed by school district decision makers alongside purely economic considerations in deciding whether it is prudent to eliminate them. See Moore, Student Classification, pp. 96-113.

153/ National Academy of Sciences Report, pp. 103-110.

154/ National Academy of Sciences Report, p. 103.

155/ See the discussion of these criteria in Section 4 and especially in Notes 104, 105, and 106.

156/ November Letter, pp. 3-6 and its accompanying appendix titled "Highlights of Assessment Measures."

157/ In the July meeting, the individual tests in the Experimental Battery, particularly the Test Teach Test instrument, were repeatedly referred to as being in the process of development. We were told that the Test Teach Test Instrument was a "modified version of the Feuerstein method," and the school system does not use Feuerstein's own name for this test (Learning Assessment Potential Device) in referring to it.

158/ These requests were made in a May 1982 telephone conversation with Dr. Ora McConner, in the July 16, 1982 meeting with Dr. McConner and her staff, and in an August 2, 1982 letter to Dr. McConner. In May and July, DFC was refused access to the tests. The November letter failed to respond to this request.

159/ As a safeguard for subjects involved in research aimed at developing a new testing procedure and as an important part of the effort to establish a test's validity, customary professional practice entails using the experimental testing procedure along with other testing procedures. In cases where an experimental procedure is used from the beginning to make important decisions about children's futures, the APA Ethical Standards suggest that it is the researcher's obligation to obtain informed consent from the child's parent. The parent should be made aware of "all aspects of the research that might reasonably be expected to influence willingness to participate..." APA Ethical Standards, p. 638.

160/ Ibid.

161/ Board of Education of the City of Chicago, May 1982 Progress Report, p. 30, states the following: "Phase-In Instituted: Every 4th potential EMH referral (including reevaluation) is to be evaluated using non-traditional assessment techniques. In March, every 3rd and 4th; in April every 2nd, 3rd, and 4th; in May, all are to be accomplished in this manner." Neither this report nor other available evidence indicates that procedures described in Notes 159 and 160 were followed.

162/ The section of the APA Test Standards entitled "Standards for Tests, Manuals, and Reports" lists essential information that must be assembled in a test manual about a test that has been developed for widespread use. This section of the APA Test Standards states, "The development of a test or testing program is based on research; the report of that research is often

contained in a manual. These standards, therefore, concentrate on the manual... as the full and proper report of what was done in test development; they specify standards for reporting from which one may infer standards for research." (emphasis added, p.9). Since the school system abandoned the effort to collect research data adequate to address the issues that the APA considers essential for a test manual, the test developers were under a clear obligation to halt the widespread use of the Experimental Battery.

163/ APA Test Standards, pp. 25-55, describes a total of 58 standards termed "essential" for test reliability and validity.

164/ APA Test Standards.

165/ APA Ethical Standards, p. 637, states "Psychologists responsible for the development and standardization of psychological tests and other assessment techniques utilize established scientific procedures and observe relevant APA standards." The Ethical Standards also state that "As members of governmental or other organizational bodies, psychologists remain accountable as individuals to the highest standards of their profession." APA Ethical Standards, p. 633.

166/ APA Test Standards, pp. 57-59.

167/ APA Test Standards, p. 32

168/ In its November letter, the school system merely lists eight tests, citing bits and pieces of evidence about the alleged reliability and validity of individual test instruments. However, no indication is provided as to how this test battery is used as a whole to make decisions about children or about the reliability and validity of this overall testing and decision-making process. It is this question, which is of paramount importance in shaping children's futures, that must be addressed to conform with professional standards.

169/ John Salvia and James E. Ysseldyke, Assessment In Special and Remedial Education (Boston: Houghton Mifflin Co., 1981), p. 98, state that tests used to assign a child to a special class should have a minimum reliability of .90. The school system has not demonstrated that any of its tests meet this criterion.

170/ APA Test Standards, pp. 25-31, 56-57. See also, Bert F. Green, "A Primer of Testing," American Psychologist 36 (October 1981), p. 1006, who states, "A test cannot be valid in general; it is valid for a purpose." This basic principle of test development and test use is reflected in federal and state laws governing test use in special education; federal regulations, for instance, state that tests must be "validated for the specific purpose for which they are used." 34 C.F.R. 300.532.

171/ Ibid.

172/ APA Test Standards, pp. 3, 64.

173/ Consultants' Report, pp. III-15, III-19, III-24. On p. III-27, the consultants state "Nondiscriminatory assessment cannot take place in an atmosphere of ambiguity and uncertainty."

174/ Feuerstein, Dynamic Assessment. In the July meeting, school system staff spoke repeatedly of using the "Feuerstein method" as a central part of their reclassification effort.

175/ Ibid., pp. 57-126.

176/ Ibid., pp. 127-274; Feuerstein, Instrumental Enrichment.

177/ Ibid.

178/ Feuerstein, Dynamic Assessment, p. 329.

179/ Ibid., p. 326.

180/ National Academy of Sciences Report, p. 43.

181/ Ibid. Available evidence from interviews with school system social workers, who have the responsibility of conducting a parent interview in the reclassification project, indicates that the adaptive behavior test being used does not rely on standardized scorable information from parents. Yet it is precisely this sort of adaptive behavior testing procedure that has reduced ethnic disproportions in EMH programs.

182/ One adaptive behavior test in wide use that is based on a scorable interview with parents and has been the subject of extensive research is the Adaptive Behavior Inventory for Children (ABIC). This adaptive behavior test, which is valid for children 5 to 11 years old, is part of the System of Multicultural Pluralistic Assessment (SOMPA), but is available separately from its publisher, The Psychological Corporation. Mercer, "Policy Statement on Assessment Procedures"; Jane R. Mercer and June F. Lewis, "Nondiscriminatory Multidimensional Assessment for Educational Placement and Planning," UCLA Educator 20 (Spring/ Summer 1978).

183/ APA Test Standards, p. 59.

184/ Meeting agendas attached to the November letter. Several additional hours appear to have been devoted to discussions of various approaches to assessment, but such presentations are not the same as focused training in the use of specific test instruments.

185/ May 1982 Progress Report, p. 30.

186/ Interview with Reuven Feuerstein, December 13, 1982. Dr. Feuerstein indicates that two weeks of full-time training are needed to properly use his testing methods with children.

187/ Interview with Joan M. First and W. Alan Coulter (see Note 30).

188/ Context for Achievement indicates the reading achievement score for the student at the 75th percentile in the elementary school achievement testing program (see page I-11). An examination of these data for students aged 9 to 13 indicates that the reading achievement scores for Chicago students at the 75th percentile for Chicago were close to the average score for the nation; thus, about 75% of the students tested in Chicago read below the national average in 1981-82. Further, the scores of most handicapped and bilingual students were not reported, and, if they had been, this would introduce a substantial number of low-scoring children into the distribution of scores. Thus, the true number of Chicago public school students reading below the national average is substantially greater than 75%.

189/ See Notes 38, 39, 70, and 170.

190/ See Section 4.

191/ National Academy of Sciences Report, pp. 198-199. Since this information was prepared, several additional states have adopted specific state-wide standards.

192/ See Note 7.

193/ See Note 44.

194/ See Note 43.

195/ See Note 59.

196/ See Notes 61 and 63.

197/ See Note 70.

198/ See Note 70.

199/ One justifiable reason for sending EMH students to such special schools, for example, is that they are receiving "related services," such as physical therapy, that is impossible to

provide in a neighborhood school. The Consultants' Report, however, notes that only a moderate percentage of EMH students in Chicago receive related services, calling into question the extent to which Chicago's EMH students are so starkly separated from the regular school program (p. III-35).

200/ PASE v. Hannon.

201/ Ibid., p. 878.

202/ Ibid., pp. 836, 837.

203/ PASE v. Hannon, appeal filed August 1980.

204/ United States v. Chicago Board of Education, consent decree approved September 24, 1980.

205/ The Educational Components were adopted by the Chicago school system on April 15, 1981 and submitted to Judge Milton Shadur on April 16, 1981.

206/ "Modification of Part I of the Student Desegregation Plan: Special Education and Testing," adopted by the Board of Education of the City of Chicago on June 24, 1982.

207/ United States v. Chicago Board of Education, request for public comment, April 16, 1981.

208/ Designs for Change's First Response, United States v. Chicago Board of Education. See Note 78.

209/ Ibid. Additional comments requesting an independent monitoring commission were submitted by Citizens Schools Committee and Chicago Urban League.

210/ Reply Memorandum, filed August 28, 1981, p. 43, United States v. Chicago Board of Education.

211/ United States v. Chicago Board of Education, Transcript of Proceedings, status hearing, November 12, 1981, pp. 15, 16.

212/ Staff's Response, United States v. Chicago Board of Education. See Note 79.

213/ Ibid., p. 1.

214/ Consultants' Report.

215/ Designs for Change's Second Response, United States v. Chicago Board of Education. See Note 80.

216/ PASE v. Hannon, Stipulation to Terminate Proceedings, filed March 24, 1982.

217/ Letter of August 2, 1982 to Dr. Ora McConner, Associate Superintendent for Pupil Personnel Services and Special Education Program Development, from Sheila Radford-Hill of Designs for Change, requesting specific information about the school system's reclassification project.

218/ Letter to Dr. Ruth Love, General Superintendent of Schools, from Designs for Change, October 27, 1982, requesting a meeting to discuss the school system's reclassification project.

219/ Letter to Robert C. Howard, attorney for the Chicago schools, from Designs for Change, October 27, 1982, requesting a response to DFC's August 2, 1982 letter to Dr. Ora McConner.

220/ Letter to Designs for Change from Dr. Ruth Love, November 4, 1982.

221/ November Letter.